



Minority Rights Organisation
Investigative Research Report 2014, No. 1

Abandoned People:

Khmer Krom Seeking Asylum and Refuge in Thailand



By ANG Chanrith & Jack LARKIN

Published by MIRO
February 2014

#18D St. 568 Tuol Kork, Phnom Penh, Cambodia
Tel. No. (855-12) 934 802, (855-11) 919 979, E-mail: miro.cambodia@gmail.com

ACKNOWLEDGEMENT

The authors acknowledge and thank Jamie CHAN, legal assistant intern to MIRO and MIRO staff for their contributions to and interpretation of the draft of the report.

We also acknowledge the contribution of Adam SEVERSON, Jesuit Refugee Service's (JRS), Legal Officer in Bangkok, Thailand and Chantal HUDSON, Asylum Access Thailand (AAT), Legal Services Coordinator in Bangkok to the draft of the report.

We thank Noemie Weill, MIRO's legal assistant intern for her contribution to the draft report on international law analysis and also thank KIND and JRS for providing offices to us working on this report.

We thank Judith Kunze, MIRO's Board Member and Advisor to Society for Threatened Peoples in Berlin, Germany, for editing the report.

We also thank Jenny Holligan and Danh Hong, and all MIRO board members for their comments and feedback to the draft of the report.

As for the content of this report, the responsibility lies with the authors and MIRO. It does not reflect the views of those who contributed with their remarks and feed-back.

Any feedback or queries to this report, please send to miro.cambodia@gmail.com

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1. Introduction

Kampuchea Krom describes the area surrounding the Mekong Delta in southern Vietnam. It is the ancestral homeland of ethnic *Cambodians of the south*, the Khmer Krom people. Throughout history, Khmer Krom have struggled to maintain their distinctive identity, culture and religion.¹

Kampuchea Krom has been under the rule of Vietnam since 1949. The modern, reunited state of Vietnam is a Communist country. “Human Rights Watch” in a recent report has described it as a ‘one party state that denies its citizens the freedom of speech, press, assembly and religion.’ Khmer Krom suffer under Vietnamese state policy directly aimed at restricting their religious freedom, freedom of movement and expression as well as suppression of land rights protest. Vietnam was recently returned to a US State Department list of the world’s worst violators of religious freedom following a bipartisan commission in April 2013.²

The Royal Government of Cambodia (RGC) has repeatedly stated that Khmer Krom are Cambodians who enjoy full entitlements of Cambodian citizenship. Hundreds of thousands of them have live within Cambodia for decades, others migrated in the past ten to twenty years for economic or political reasons from Vietnam. However, the political relationship between Cambodia and Vietnam often prevents Cambodia from acting to protect its people accordance with its assurances and Constitution. The resulting situation is one of citizenship promised, but never delivered. The RGC does not follow its own word in this regard. This has a significant effect on Khmer Krom’s ability to seek asylum in neighbouring countries having fled oppression and persecution in their homeland.

The United Nations High Commissioner for Refugees (UNHCR) subscribes to the RGC’s assurances that Khmer Krom are Cambodian citizens who enjoy the same rights as other Khmer.³ It is this blind and strict adherence which is the most common justification provided by the UNHCR when denying Khmer Krom asylum. The UNHCR is satisfied that Cambodia is a safe place for Khmer Krom to live. This is suggestive of a poorly informed and misguided asylum processing system; one that is not sensitive to regional realities. What is more, rejection letters to asylum applicants show a striking similarity in their argumentation, which

¹ Khmer Kampuchea Krom Federation Research Team, “The Culture of the Khmer Krom”, <http://www.khmerkrom.org/people-culture>, accessed December 20, 2013.

² United States Commission on International Religious Freedom, Annual report 2013, Dr. Katrina Lantos Swett, Ambassador Mary Ann Glendon and Ambassador Jackie Wolcott, www.uscirf.gov, accessed November 29, 2013.

³ UNHCR’s notification of reasons for decision, Legal/RSD/12/0135 to Khmer Krom applicant, dated April 4, 2012.

gives rise to fear that UNHCR neglects to seriously consider the individual case.⁴ The situation in Cambodia for Khmer Krom is plagued with troubles as they struggle to obtain basic documentation and live in fear of deportation back to Vietnam. As long as Khmer Krom continue to face difficulty in Vietnam without support from the Cambodian Government, it is unreasonable to deny them asylum in a third country when the only justification for doing so is in reliance on the RGC's assurances.

It is often those at the very centre of the Khmer Krom culture (Theravada Buddhist monks) who stand against human rights violations in Kampuchea Krom. This is despite efforts to dilute the Khmer Krom identity and culture.

2. Methodology and Purpose

The Minority Rights Organisation (MIRO) conducted research which lasted for four days from November 9, 2013 until November 12, 2013. MIRO staff travelled to Bangkok and two other provinces in Thailand where Khmer Krom asylum seekers and refugees live.

MIRO staff interviewed twenty-nine Khmer Krom asylum seekers and refugees living in these locations with the use of questionnaire forms. Thirteen of these twenty-nine were women, which was important as MIRO was interested in receiving a balanced response. The report that follows is based on primary



data collected during the research process as well as secondary data from reports, articles and relevant legal provisions.

The leading purpose for this report is to address the UNHCR with regards to the situation of Khmer Krom asylum seekers and refugees. This United Nations agency is mandated to protect refugees worldwide. MIRO hopes that the information presented in this report will assist UNHCR in developing effective measures to protect Khmer Krom through the Refugee Status Determination process and if successful, effective protection. MIRO also intends that this report serve as an informative, contextual basis to assist lawyers representing Khmer Krom asylum seekers in Thailand. Specifically, MIRO is at pains to promote the reality of the

⁴ Letters presented to MIRO staff during interviews with Khmer Krom's asylum seekers in Bangkok on November 11, 2013

RGC's treatment of Khmer Krom who, having been assured Cambodian citizenship, struggle to access its protection and benefits as promised.

This report follows an earlier report by the "Cambodian Centre for Human Rights" in July 2011, *False Promises: Exploring the Citizenship Rights of the Khmer Krom in Cambodia*. MIRO seeks to investigate whether the situation of Khmer Krom has changed since then and to what respect. This work represents a commitment from MIRO to continue with the promotion and protection of the rights of Khmer Krom. MIRO hopes this report is the catalyst to spark constructive dialogue and discussion on the issue amongst integral stakeholders.

3. Report Outcome

3.1 Issues encountered by Khmer Krom in their Country of Origin, Vietnam (Kampuchea Krom)

Khmer Krom seeking asylum and refuge with UNHCR in Bangkok, Thailand have experienced wide ranging and severe human rights violations in Vietnam. MIRO's interviews revealed that these included violations of religious freedom, land rights, language, culture, tradition as well as restrictions on freedom of expression, association and assembly. Many of those interviewed had their arrest sought by Vietnamese authorities or had been subject to torture.

Dissidents and human rights activists are often prosecuted by Vietnamese authorities under Article 87 of the Penal Code.⁵ Article 87 is a loosely phrased provision which is vague enough to be used against minorities who lead and/or take part in peaceful demonstrations. Those who demand their rights are seen to undermine the unity policy of the Vietnamese Government. Article 87 is inconsistent with the International Covenant on Civil and Political Rights (ICCPR) to which Vietnam is a signatory.⁶ Furthermore, the UN has called on

⁵ Article 87 'Undermining the Unity Policy', Vietnamese Penal code, No: 15/1999/QH10, Hanoi, 21.12.1999

1. Those who commits one of the following acts with a view to opposing the people's administration shall be sentenced to between five and fifteen years of imprisonment:

- a) Sowing division among people of different strata, between people and the armed forces or the people's administration or social organizations;
- b) Sowing hatred, ethnic bias and/or division, infringing upon the rights to equality among the community of Vietnamese nationalities;
- c) Sowing division between religious people and non-religious people, division between religious believers and the people's administration or social organizations;
- d) Undermining the implementation of policies for international solidarity.

2. In case of committing less serious crimes, the offenders shall be sentenced to between two and seven years of imprisonment <http://moj.gov.vn> accessed on 22.01.2014

⁶ ICCPR Art. 19 (Freedom of Expression), Art. 21 (Freedom to Peaceful Assembly), Art. 22 (Freedom of Association)

Vietnam since 1995 to revise such amorphous provisions which criminalise peaceful exercise of human rights.⁷

3.1.1 Undue Legal Procedure

It is common for human rights activists in Kampuchea Krom to be brought to trial without proper legal proceedings. Those who cannot escape arrest face the serious prospect of appearing at trial without legal representation⁸ as was the case of venerable Buddhist monks Thach Thoul and Nieu Ly (as well as their supporters Thach Phum Rich and Thach Quanh Tha)⁹. These men faced the charge of “Public Disorder” which is a powerful tool Vietnamese authorities use for political persecution and the silencing of dissidents.¹⁰ On September 27, 2013, Thach Thoul was sentenced to six years imprisonment for using phone and internet to contact organisations abroad to raise the human rights situation in Kampuchea Krom.¹¹ This action was said to be in contravention of Vietnamese state policy. Nieu Ly received a four year prison sentence for refusing to defrock Thach Thoul as ordered by the “Patriotic United Buddhist Association” (a Vietnamese state authority). Nieu Ly argued that he had refused to defrock Thach Thoul as he had not broken any Buddhist principles. Thach Phum Rich and Thach Quanh Tha were sentenced to two and three years respectively, for their part in helping the two monks flee after they became fearful of their safety.

Following the trial, the “Khmer Kampuchea Krom Federation”, a peaceful advocacy group who globally promotes the Khmer Krom situation, called on the international community to remind Vietnam that it had violated Article 14 of ICCPR, namely that ‘everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.’

Another specific case from 2007 saw five Khmer Krom monks named 1) Ly Hyang 2) Yanh Taung 3) Kim Moeun 4) Thach Thoeung and 5) Ly Soeung arrested and sentenced to between two and four years imprisonment following their actions in leading demonstrations calling for religious freedom and Khmer language education.¹² Recently, there was a Khmer Krom monk of Prey Chop Pagoda in Vihn Chau District who was forcibly defrocked by local

⁷ <http://www.unpo.org/article/13942>

⁸ MIRO interviewed Khmer Krom’s asylum seekers in Bangkok on November 11, 2013.

⁹ Tin Zakariya, “Khmer Krom monks in hiding from Vietnamese authorities”, Radio Free Asia, May 17, 2013, available at www.rfa.org/khmer.

¹⁰ <http://www.khmerkrom.org/news-events/human-rights-monitor/544-human-rights-monitor-urgent-appeals-sep30>

¹¹ MIRO interviewed Khmer Krom who fled from Ta Set temple in Bangkok on November 11, 2013.

¹² Statement, Khmer Kampuchea Krom Human Rights Organization “condemns the Hanoi authority to unfairly try 5 Khmer Krom monks to jail”, Phnom Penh, May 11 2007.

police on 16 May 2013 and then thrown unconscious into the street. Since then, a number of his supporters have been placed under arrest.¹³

3.1.2 Access and Distribution of Information

The Vietnamese Government has frequently imposed bans on Khmer Krom publications which advocate the improvement of the human rights situation in Kampuchea Krom. Freedom of press, media and internet in Vietnam is especially strict for those Khmer Krom who have tried to share information to the outside world. If someone is defined as a blogger, website designer or online journalist, these people are under frequent surveillance and are often harassed by Vietnamese authorities. As at March 8, 2013 a total of 32 bloggers and other cyber-dissidents were behind bars in Vietnam, either sentenced or awaiting trial. If found guilty they face prison terms of up to sixteen years. By way of Ordinance 44 (2002), Vietnamese law authorises “administrative detention” without trial of peaceful dissidents who pose a threat to state security or public order. Many cyber-dissidents, including Khmer Krom, have been pursued under this legal mechanism whose practice in Vietnam is in violation of International Human Rights law; it denies due process to those who fall within its ambit.¹⁴

3.1.3 Land Rights

The Khmer Krom have long relied on the land surrounding the Mekong Delta for their livelihoods. However, in 1975, land was nationalized. Having confiscated all the land, the Communist Government began to sell it back to the people, while withholding the most fertile land for themselves and their families. This particularly affected Khmer Krom who were forced to buy back their own land. Those who could not afford to buy back their land were left to starve. Many assumed the position of labourers when traditionally, they had once been land owners and farmers. Since then there has been growing desperation amongst Khmer Krom who face landlessness and poverty.¹⁵

In February 2008, Khmer Krom farmers staged protests in An Giang Province demanding the return of Khmer Krom’s confiscated farm land. They were swiftly met by forceful police officers who used dogs and electric batons to disperse the demonstrators.¹⁶ Chau Hen often

¹³ MIRO interviewed Khmer Krom asylum seekers in Thailand on November 11, 2013.

¹⁴ Agence France Press, “Human rights activists push UN for action over Vietnam’s treatment of cyber-protesters”, March 8, 2013

¹⁵ MIRO’s interview with Khmer Krom land rights activists in Thailand from 10-12 November 2013.

¹⁶ Human Rights Watch, “On the Margins: Rights Abuses of Ethnic Khmer in Vietnam’s Mekong Delta”, page 4, January 2009.

led these peaceful protests along with Huynh Ut (alias Chau Ouk) and Chau Sokhon and feared reprisal from the Vietnamese authorities. In 2010, these men and their families were refused asylum with UNHCR in Bangkok. On the December 17, 2010, Chau Hen and his wife returned to Vietnam. Within two hours of their return, Chau Hen was arrested by Vietnamese police. At the police station, he saw the names of Huynh Ut and Chau Sokhon on a whiteboard also to be arrested. He was severely tortured at all levels of the prison cell; at the commune, district and provincial levels. He grew weak and fell very sick. Chau Hen believes he was also poisoned at this time as he suffered from loss of memory and cognitive function.¹⁷ He was refused access to a doctor. His encounter with the prison cell left him a much affected man.

On March 31, 2011 Chau Hen faced trial in the Vietnamese court of Tri Ton district. Too ill to speak and defend himself, he gave an unwarranted confession. He was sentenced to two years imprisonment for inciting Khmer Krom farmers and causing public disturbance.¹⁸ This is a significant case which illustrates the real danger facing those who return to Vietnam following rejection of their asylum seeker claims. This case haunts other Khmer Krom who are in a similar position to Chau Hen.

3.1.4 Education and Linguistic Restrictions

Despite living in Vietnam, many Khmer Krom rarely speak Vietnamese. Rather, they speak Khmer in their communities. The teaching of the Khmer language is heavily restricted in Vietnam. From 1975 onwards, the Vietnamese Government systematically closed all public schools which taught the Khmer language. Whilst today the situation has improved slightly, the learning of Khmer is restricted to the teachings provided by monks in their pagodas. This of course is difficult for Khmer Krom girls who do not have the same access to pagodas as their male counterparts. As it happened, all of the women MIRO interviewed could not read or write their own language. This is in stark contrast to Khmer women living within Cambodia of whom the vast majority can read and write Khmer.

3.1.5 Violation of Religious Freedom

Vietnamese state policy tightly controls Khmer Krom's practice of Theravada Buddhism. For the Khmer Krom, this religion is fundamental in defining their distinctive culture and ethnic identity. Theravada Buddhism is of significant influence in the lives of Khmer Krom and is

¹⁷ MIRO interviewed Chau Hen on November 9, 2013.

¹⁸ <http://khmerkrom.net/km/node/4263>

seen as a rational, peaceful religion. Nonetheless, Vietnam has a practice of attempting to decentralise this important aspect of Khmer Krom culture by way of a number of restrictions. There was a period when Khmer Krom were not permitted to reconstruct their damaged temples following the Indochina wars in the latter part of the twentieth century. At this time, monetary donations to Theravada Buddhist institutions was also monitored. Whilst today many of these restrictions have been lifted somewhat, Vietnamese authorities still see Khmer Krom monks as a threat to the national unity policy and as such, often harass and pressure them.

3.1.6. Rights sought by Khmer Krom

Khmer Krom demand their human rights to be respected by Vietnamese Government authorities. The rights they seek are inalienable as decreed by the Universal Declaration of Human Rights and the ICCPR. They expect nothing more than what is owed to them by virtue of their humanity; the rights to culture and identity, to education, freedom of expression, movement and assembly and in particular; freedom to practice the religion of their choice.¹⁹ No state should deny this of its inhabitants and every country has to respect and promote it for its citizens²⁰. However, throughout history, the Khmer Krom have suffered under Vietnamese state policies specifically aimed at eradicating their religious and cultural practices. It is important to note that this is not isolated to Khmer Krom with Vietnamese authorities targeting all religious and cultural practices which fall outside of mainstream. This in turn has forced large numbers of Khmer Krom to seek settlement in Cambodia as they flee persecution, oppression and discrimination in their homeland. Those prepared to advocate for their rights face arbitrary arrest, violence and in some instances, torture.

3.2 Key Reasons why Khmer Krom Activists cannot live in Cambodia

In light of the oppression stemming from Vietnamese authorities, many Khmer Krom leaders and demonstrators seek political asylum and flee to neighbouring countries.

Khmer Krom in Vietnam consider the RGC as their own government. Indeed, the RGC has repeatedly affirmed that “Khmer Krom enjoy the same rights as Khmer citizens whilst resid-

¹⁹ MIRO staff interviewed all 29 Khmer Krom asylum seekers who have applied for refugee status with UNHCR in Bangkok from November 10 – 12, 2013. Most of them have been rejected by UNHCR recently.

²⁰ ICCPR is in force since 1976 and commits its parties to respect it. Vietnam ratified the ICCPR the 24th September, 1982.

ing in or entering the Kingdom of Cambodia.”²¹ It has made this representation on numerous occasions, including to the UNHCR. Cambodia has many existing legal provisions²² which protect its citizens from deprivation of nationality, exile, arrest as well as deportation to any foreign country. However, there are numerous instances where the RGC has not afforded such protections to Khmer Krom people.

The RGC has a record of failing to protect Khmer Krom from arbitrary arrested and imprisonment in Vietnam.²³ They have also failed to ensure expeditious justice in the Kandal Provincial Court following the suspicious death of a Khmer Krom Buddhist monk who joined a peaceful demonstration in front of the Vietnamese Embassy in Phnom Penh on February 27, 2007.²⁴ It would appear that the RGC is unconcerned with the living conditions, gender equality, education and political participation of Khmer Krom in their communities. In essence, the RGC makes it very difficult for Khmer Krom to access their citizenship as promised. This is evident in the issuing of Cambodian identification cards where Khmer Krom are required to change their family name and place of birth. In doing so, they lose their identity.²⁵ It is also common practice for issuing authorities to require an ‘additional fee’ or bribe. Khmer Krom are often more distressed at the prospect of being unable to afford the bribe rather than being outraged that it is expected of them in the first place.²⁶ This is evident of how poorly informed Khmer Krom are when it comes to acceptable procedures.

In December 2009, a group of twenty-four Khmer Krom asylum seekers were arrested and deported back to Cambodia by Thai authorities. They subsequently applied to authorities in Phnom Penh for documentation proving their Khmer citizenship including identification cards, birth certificates, family books and resident books. Their requests were refused on the

²¹ The Cambodian Ministry of Foreign Affairs, letter No 1419, August 2, 2005 to UNHCR Phnom Penh Office.

²² Article 33, the Constitution of Cambodia, promulgated on September 21, 1993; Article 2 – 4, Law on Nationality, Preah Reach Kram NS/RKM/1096/30, promulgated on October 9, 1996.

²³ Case in which five Khmer Krom Buddhist monks were sentenced to between 2 to 4 years in prison by Vietnam’s Soc Trang court in 2007, according to KKKHRA investigation report 2007, and Kim Povsothon, Radio Free Asia (RFA) “Vietnamese court jailed 5 Khmer Krom”, May 10, 2007. Recent cases of 2 Khmer Krom Buddhist monks (Abbot Lieu Ny and venerable Thach Thuol) and their 6 followers were defrocked and put in Vietnam’s jail because of exercising their rights to freedom of religion, thought and conscience: Letter of Appeal – June 4, 2013: Protesting Human Rights Violation, and Press Release of KKF on October 3, 2013, www.khmerkrom.org/kkf-press-release/529-khmer-krom-practice-buddhisim-in-fear.

²⁴ He was likely to be murdered at his Kandal provincial pagoda following his participation in protests against Vietnamese authorities when they defrocked the Khmer Krom monks, including a February 27 protest on the occasion of the official visit of the delegation led by Vietnamese President, Nguyen Minh Triet, according to Adhoc’s, Licadho’s and KKKHRA’s reports in Feb and March 2007, and Yun Samean and Emily Lodish, The Cambodian Daily “Rights Groups investigating death of monk in Kandal” March 2, 2013, as well as Ok Savbori, RFA broadcast “controversial case of Khmer Krom killing” on March 7, 2007.

²⁵ MIRO’s investigative research report 2013 “Marginalization of Women in Disadvantaged Communities”, page 5

-15.

²⁶ MIRO interviewed Khmer Krom asylum seekers November 11, 2013.

basis that they did not have permanent or fixed address in Cambodia.²⁷ It would be rare for Khmer Krom to have a fixed address in Cambodia when they are born and live in Kam-puchea Krom territory. This rejection is overwhelmingly contrary to Articles 2-4 of the Law on Nationality.

3.2.1 The case of Tim Sakhorn

Tim Sakhorn, abbot of Takeo's Phnom Den monastery was illegally defrocked by Cambodia's top Buddhist patriarch monk Tep Vong in June 2007 (order No.: 502/07 SNKJ). Sakhorn was charged with undermining diplomatic ties between Cambodia and Vietnam by attempting to establish a religious movement from his pagoda. He was deported to Vietnam where he was held at a Vietnamese military base.²⁸ On August 2, 2007 the Vietnamese Embassy said he faced trial in Vietnam.²⁹ Tim Sakhorn is of Khmer Krom ethnicity and therefore recognised as a Khmer citizen by the law of Cambodia and the Government's assurances. In arresting and deporting him to face jail in Vietnam, the CG explicitly failed to honour its promised word. This case still scares other Khmer Krom living in Cambodia. Another similar case is that of Srey Sothy who was on the run from Vietnamese arrest inside Cambodia on 19 February 2009. Srey Sothy's wife explained³⁰ how he escaped from their house in Toul Sdey, Svay Rieng province when Vietnamese police (in cooperation with Cambodian authorities) came to arrest him on the suspicion of distributing three Khmer language books to his relatives in Vietnam.

Following numerous protests and demonstrations between 2007 and 2009, most of the demonstrating Khmer Krom Buddhist monks were forced by local authorities to remain in their pagodas.³¹ They were also placed under strict surveillance by Cambodian and Vietnamese agents.³² Their security in Cambodia remains uncertain.

²⁷ Wells Cameron and Bun Tharum, The Phnom Penh Post "Khmer Krom ID denied" February 22, 2010; Licadho report 2010 and CCHR: HR report false promises exploring the citizenship rights of the Khmer Krom in Cambodia, page 20 - 21

²⁸ Yun Samean, The Cambodia Daily, "Missing monk may be on VN military base: Report", July 13, 2007.

²⁹ Yun Samen, "Missing monk to face trial in Vietnam", The Cambodia Daily, August 3, 2007.

³⁰ Kesor Raniya, RFA, "Khmer Krom man on the run from Vietnamese arrest inside Cambodia" February 22, 2009.

³¹ Wat Mahamontrey's abbot, Oa Li, notification to his pagoda monks dated March 1, 2007.

³² MIRO interviewed Khmer Krom people and monks in a number of monasteries in Phnom Penh, Takeo and in Bangkok, Thailand in September and November 2013: "We often see Vietnamese agents inside our pagoda and communities, in particular at our gatherings. They wear plainclothes and videotape us in order to identify us and the monks who attend demonstrations and demonstrators. They speak Vietnamese to each other."

3.2.2 The Relationship between the Cambodian and Vietnamese Governments

“Human Rights Watch” report “On the Margins: Rights Abuses of Ethnic Khmer in Vietnam’s Mekong Delta” accused the RGC of abetting Vietnam (“a close ally”³³) to suppress the voices of Khmer Krom who flee across the border to Cambodia and advocate for greater freedom within their community. It added that Vietnamese agents have long operated inside Cambodia with help from the RGC to identify “cells of reactionary” Khmer Krom and devise “effective measures of interdiction and management”.³⁴

It is this relationship of solidarity, friendship and influence which underscores the RGC’s reluctance to protect its Khmer Krom people from Vietnamese authority. Political collaboration between the two Governments leads to the suppression of Khmer Krom activism in Kampuchea Krom.

When Khmer Krom arrive in Cambodia, they expect to find help and support from the Government. Given the Government’s assurances, they believe Cambodia to be a safe place for them free from arrest and persecution. This is not what they find when arriving in Cambodia. There is nowhere for them to stay as local authorities prevent them from staying in monasteries.³⁵ In this way, they are forced to continue on to Bangkok where it is claimed that they are illegal immigrants.³⁶ Even after eventually receiving the refugee recognition from UNHCR, they are considered as illegal migrants by the Royal Thai Government. Based on these experiences, most Khmer Krom fleeing oppression in their homeland use Cambodia as a pass through route to Thailand.

They cannot apply for refugee status whilst within Cambodia as to be eligible for international refugee protection you must be outside your country of origin. As Cambodia recognizes Khmer Krom as Khmer citizens on paper, the UN considers them to be in their country of origin. They fear deportation back to Vietnam if they stay in Cambodia. Therefore, they are forced to continue on to Thailand.

3.3 Fear and Confrontation in Thailand

MIRO interviewed 29 Khmer Krom asylum seekers and refugees who spoke on behalf of a number of different families and represented a total of 82 persons. 50 of these 82 Khmer Krom asylum seekers (or 60%) have been rejected for refugee status both at first instance

³³ Human Rights Watch Report, “On the Margins: Rights abuses of ethnic Khmer in Vietnam’s Mekong Delta”, page 3, January 2009.

³⁴ Brendan Brady, The Phnom Penh Post, “Time of reckoning for Khmer Krom”, February 25, 2009

³⁵ MIRO interviewed 29 Khmer Krom asylum seekers and refugees from 10-12 November in Bangkok, Thailand.

³⁶ MIRO interviewed 29 Khmer Krom asylum seekers and refugees from 10-12 November in Bangkok, Thailand.

and on appeal of their application. Of the remaining 32 persons, 19 were under reconsideration, eight persons bore nothing and five were recently recognised as refugees by the UNHCR Bangkok office.

Those Khmer Krom asylum seekers and refugees interviewed expressed the fear that they will be arrested by Thai authorities in collaboration with Cambodian intelligence police and deported to face imprisonment in Cambodia or Vietnam. These feelings of unrest come especially following the cases of Mr. Thach Teu, Buddhist monk Thach Kung Fuong, Mr. Yaing Yav, Mr. Kheum Khemra and Mr. Thach Yoeung Yerp, who were forcibly returned to Cambodia and detained in March 2013.³⁷ Cases such as these have instilled fear within Khmer Krom asylum seekers who have identified strange people in plainclothes asking for the names of their community leaders and members. These Khmer Krom live in a state of fear and uncertainty which inhibits all aspects of their daily interactions.

There are a number of Khmer Krom nationalist groups (based abroad) who have declared themselves as responsible for bringing injustices within Cambodian society to the attention of the international community.³⁸ These include the “Khmer Citizen Power Movement”, the “Tiger Head Movement”, “Khom Empire”, the internationally recognized “Khmer National Liberation Front” and “Former Soldiers of Mike Forces and White Scarves”. In May 2013, Prime Minister Hun Sen stated that the RGC considers several of these organisations to be terrorist groups and vowed to expose them under the arm of the law. Hun Sen accused them of not only wanting to change him and his government, but of also wanting to dissolve the royal monarchy.³⁹ Despite a lack of evidence connecting these civil groups to acts of terrorism,⁴⁰ the RGC is committed to pursuing and disrupting their activity.

To date, a number of key individuals of such movements have been jailed in Cambodia accused of being members of armed groups with the intention of toppling the incumbent RGC. In March 2013, six Khmer Krom men were arrested in Thailand and swiftly found themselves in a Cambodian jail accused of belonging to an antigovernment group planning terrorist attacks against Hun Sen’s government.⁴¹ More often than not, those associated with such groups are concerned with human rights violations and want to create greater democratic space in Cambodia. They want peace and good governance for Cambodia and its people. In any event, they argue that they have every right to criticise the Government.

³⁷ MIRO met with Licadho’s Phnom Penh prison researcher who interviewed inmates at the Correction Center 1 (CC1) on August 8, 2013.

³⁸ Letter from Serey Sam (President of Khmer National Liberation Front) to Martin Schulz (President of the European Parliament) dated December 20 2012.

³⁹ Vong Sokheng and Stuart White, “PM warns of ‘terrorists in opposition’”, *The Phnom Penh Post*, May 17, 2013.

⁴⁰ Colin Meyn and Eang Mengleng, “Evidence scant against (another) alleged Terrorist group”, *The Cambodia Daily*, March 21, 2013; Julia Wallace. *New York Times*, “Cambodia’s Terrorism Trump”, April 4, 2013.

⁴¹ *Ibid.*

Those involved in these groups abroad cannot return to Cambodia out of concern for their safety and given the arrests in March; they fear deportation back to face jail. Whilst MIRO does not identify with all the goals of such organisations, MIRO is concerned with defending the rights and freedom of members associated with such movements.

3.3.1 Difficulties through Application Process

MIRO discovered that the following challenges were present in up to 60% of Khmer Krom refugee applications. The application for refugee status is unarguably a daunting process for many Khmer Krom.

- a. Khmer Krom: They struggle to communicate the events which have transpired against them in their home country to the UNHCR and their lawyers.⁴² This is because of their poor levels of education and difficulties with language barriers, which might lead to problems regarding their credibility. Furthermore, having fled arrest and persecution at the hands of Vietnamese authorities, Khmer Krom rarely have sufficient documentation such as arrest warrants, summons and other police orders in support of their application to UNHCR officials. While these documents are not necessary to apply as an asylum seeker to UNHCR, they could be a strong tool to redress part of the credibility issues.
- b. “Asylum Access Thailand” (AAT) and “Jesuit Refugees Service” (JRS) lawyers: Given its complicated nature, lawyers often find it difficult to extract all the facts relevant to their clients’ cases, partly due to communication problems. In some instances, it also appears that they struggle to appreciate the gravity of their clients’ situation. This is because they might be unaware of the ineffective and weak law enforcement in Cambodia. Furthermore, they are uninformed as to the RGC’s treatment of Khmer Krom in Cambodia and Vietnam.

⁴² There are two legal aid organizations based in Bangkok, Thailand representing Khmer Krom asylum seekers’ and refugees’ cases before the UNHCR legal proceedings. They are 1) Asylum Access Thailand (AAT) and 2) Jesuit Refugees Service (JRS).

3.3.2 Daily Struggles



Whether the UNHCR in Thailand grants a refugee status or not, Khmer Krom are illegal immigrants or undocumented migrant workers. The entirety of their livelihood (and that of their families) depends on illegal work such as market porter jobs such as preparing vegetables or collecting waste. Their living conditions are extremely poor. Some of them are

sick with disease or infection and cannot afford access to medical treatment. There have been instances where they have been picked up by Thai police only to be driven to the police station where money or other precious things, specifically identification documents are extorted from them before they are granted release.

Less than ten per cent of children whose parents are Khmer Krom asylum seekers/refugees can access school in Thailand. This is despite the fact that a majority of these children were born in Thailand and have valid Thai birth certificates. The vast majority of Khmer Krom parents do not understand the enrolment process, nor do they understand the rights of their children to access education. They often have no other option but to bring their children to work with them at the markets everyday.

Those Khmer Krom living in Thailand who have recently been granted refugee status call for the UNHCR to support them financially. For a long time, UNHCR supported those who came under their mandate, however MIRO's research indicated that of the five recently recognised Khmer Krom refugees, only one receives support from UNHCR. Having received refugee status, these people expressed that they find it very difficult to obtain work and cannot provide for their families.

The UNHCR is slowly turning its attention to look into the asylum applications of a few Khmer Krom. It is reconsidering some earlier applications following the reported cases of Khmer Krom and Khmer being arrested in Thailand on March 8, 2013 and then deported back to be thrown in Prey Sar prison in Phnom Penh, Cambodia.⁴³

⁴³ Khmer Krom interviewees told our research team on November 11, 2013 in Thailand. Deportation was on the charge of forming armed group against the RGC and involved members of the "Khmer National Liberation Front".

4. Conclusion

In light of the aforementioned evidence, UNHCR must not continue to accept the RGC's assurances that Khmer Krom enjoy citizenship in Cambodia. Despite repeatedly stating that Khmer Krom are entitled to Cambodian citizenship and the benefits which come with such recognition, the reality of the matter is far removed from that which the RGC maintains it to be. Khmer Krom are an abandoned people in Vietnam where they face violation of their human rights. They are abandoned by the RGC who has promised to protect them as citizens once in Cambodia. Finally, they are abandoned in Thailand by the authorities who are unwilling to account for the situation from which they flee. The UNHCR stands as their last hope of escaping oppression in their homeland as well as the fear and uncertainty they experience in countries such as Cambodia and Thailand.

The RGC delivers the unfulfilled promise of citizenship to Khmer Krom and appears to lack the political will to stand against Vietnamese authorities who violate the human rights of these people. The representation made by the RGC that Khmer Krom enjoy Khmer citizenship indeed has a basis in law, notably the Constitution and the Law on Nationality. However, it is one thing to have such idealised provisions enshrined in law; it is then a completely different thing to ensure that they are respected in practice. This is especially so in a country which lacks the necessary legal frameworks to deliver accountability and transparency in accordance with the rule of law. Khmer Krom cannot rely on the RGC to support and protect them. As evidenced in the cases of Tim Sakhorn and given the cooperation between Cambodia and Vietnam, activists Khmer Krom living in Cambodia fear deportation back to Vietnam where they face undue legal proceedings.

To be eligible for international refugee protection, individuals must be outside of their country of origin. Due to the RGC's promise of Khmer citizenship, Khmer Krom cannot apply for asylum from within Cambodia. The asylum seeker application process in Bangkok, Thailand poses many obstacles to Khmer Krom asylum seekers who struggle with language barriers and commonly lack documentation in support of their case. Their lives in Thailand are plagued with the fear that they will be deported back to Cambodia or Vietnam where they face repercussions for fleeing.

The Vietnamese Government is reluctant to produce any clear policy to address long standing grievances within the Khmer Krom population. Vietnam, who was only recently elected to the United Nation's Human Rights Council, must answer concerns of ongoing human rights violations in light of a turbulent record of human rights abuse. Past decades have seen the Vietnamese Government engage in a direct campaign to destabilise ethnic minority popula-

tions living within its borders. The ethnic discrimination of Khmer Krom has not improved since the “Cambodian Centre for Human Rights” released its report in 2011. Khmer Krom continue to suffer from oppressive intrusion on their freedom of religion, culture, language, expression, association as well as restrictions on land ownership. Arbitrary arrest and torture are real life possibilities not mere scare tactics facing those who are prepared to advocate the rights of Khmer Krom. Vietnam’s new found place amongst the international community means that it must take steps to resolve the human rights abuses within its own borders. Vietnam must protect its indigenous and minority groups, this includes Khmer Krom.

MIRO hopes to continue to voice the situation so that the processing of Khmer Krom asylum seeker claims becomes much more politically sensitive and informed.

5. Recommendations

MIRO makes the following recommendations to the UNHCR, the RGC and the Vietnamese Government:

To the UNHCR

1. MIRO calls on the UNHCR to once again request the RGC confirms its position on Cambodian citizenship for Khmer Krom.
2. MIRO further encourages the UNHCR to review its acceptance of the RGC's assurances on Khmer Krom citizenship. It is suggested that a more responsible process would be to assess the particular asylum case and determine whether the applicant has applied for and received support from the RGC. If the applicant has not been afforded protection in Cambodia, then the UNHCR should not maintain that Cambodia is a safe place for them.
3. UNHCR should agree to review serious cases of Khmer Krom who were refused refugee status, like the cases of Huynh Ut and the ones of political activists.
4. UNHCR should financially support those Khmer Krom asylum seekers/refugees in Bangkok who cannot provide for themselves, for instance in case of poor health conditions. UNHCR should also provide protection to all Khmer Krom asylum seekers and refugees until the RGC has proven its willingness to protect those Khmer Krom in Cambodia. UNHCR should be given a clear understanding that the RGC will not extradite Khmer Krom to Vietnam where they face persecution and jail.

To the RGC

1. MIRO especially calls on the RGC to honour its representations that Khmer Krom enjoy full Cambodian citizenship in accordance with existing law such as Article 33 of the Cambodian Constitution and Article two to four of the Law on Nationality.
2. The RGC should initiate policy directives to provide for and protect Khmer Krom when they arrive in Cambodia. If Khmer Krom received such support from the RGC, it is unlikely that they would feel the need to continue onto Thailand. This would also be in line with UNHCR objectives which is interested in deterring asylum seekers from moving on to third countries.
3. The RGC must stop cooperating with Thai and Vietnamese police agents so as to suppress Khmer Krom activists.
4. The RGC must confirm that they will not extradite Khmer Krom living in Cambodia to Vietnam where they would face oppression, trial or jail.

5. The Cambodian Embassy in Ho Chi Ming City, Vietnam, must be more active in the protection of the human rights interests of Khmer living in Kampuchea Krom.
6. MIRO calls on the RGC to immediately put a stop to practices requiring Khmer Krom to change their family name and place of birth in order to obtain Cambodian identification cards.
7. The RGC should develop procedures which allow Khmer Krom quick access to identification cards when they come to Cambodia.

To the Vietnamese Government

1. The Vietnamese Government must respect the rights of its minority communities and indigenous people, especially those which relate to freedom of religion, expression and association as well as the free practice of tradition, culture and language. In doing so, Vietnam would simply be fulfilling its existing international obligations.
2. The Vietnamese Government must guarantee fair and transparent trials as well as abolish the practice of torture by Vietnamese authorities in accordance with their commitment to the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR) and International Convention on the Elimination of Racial Discrimination (ICERD).