

Refugees at Risk: Forced Repatriation of Vietnamese From Hong Kong¹

Introduction

On May 12, 1992 Britain concluded a secret agreement with Vietnam on the repatriation of Vietnamese asylum-seekers who had arrived in Hong Kong before October 29, 1991.² Although unpublished to date, various features of the agreement have been made public by the parties. The agreement includes a stipulation that no persons deemed to be genuine refugees are to be forcibly returned, and that Vietnam will not punish persons for their act in illegally leaving the country. This agreement, however, does not protect two groups of Vietnamese: those genuine refugees who have been unfairly screened out, such as ethnic Nung soldiers who fought against the communist forces during the war, and those persons that Vietnam may wish to punish because of political acts they committed while in Hong Kong.

Asia Watch does not in principle oppose deportation of illegal immigrants, a normal practice in the law of many countries. In the case of Hong Kong, however, Asia Watch urges the suspension of forced repatriation of Vietnamese until the inadequacies of the screening procedure are rectified, so that genuine refugees will not be returned, in violation of the international norm prohibiting *refoulement*. These flaws, which have been extensively reported,³ include inadequate interpretation and faulty recording of interviews, decision makers who are uninformed about conditions in Vietnam, discounting of common experiences of persecution, failure to permit applicants to fully present their claim, lack of counseling during the screening process, failure to provide applicants with access to their files after performing interviews and before filing appeals, and a general failure throughout the system to resolve credibility questions in favor of the asylum-seeker, as international norms direct.

¹ This report was compiled with the assistance of Human Rights Watch interns Winnie Sanjoto and Dionne Thompson.

² This was the third agreement on forced repatriation of Vietnamese. The first, signed September 22, 1991, concerned the repatriation of Vietnamese who had made more than one illegal entrance into Hong Kong, the so-called double-backers. The next, signed October 29, 1991, concerned repatriation of all Vietnamese arriving on or after that date.

³ See Asia Watch, "Indefinite Detention and Mandatory Repatriation: The Incarceration of Vietnamese in Hong Kong," Vol. 3, Issue 24 (New York: Human Rights Watch December 3, 1991) p. 6, n. 24 and sources cited therein.

Although biased or flawed screening endangers every potential refugee, there are particular groups that are especially at risk. Hong Kong has failed to recognize as refugees certain categories of Vietnamese who because of their particular history or ethnic background have been subject to persecution. Ethnic Nung soldiers are one such group that is eligible for immediate deportation. These men and their families have typically suffered exile, loss of civil rights and police abuse because of their association with the American, South Vietnamese and French militaries. There are others in Hong Kong's camps who are at risk because of events that transpired after their flight from Vietnam that in some way expose them to being charged with political crimes upon return. Most Vietnamese are given their first immigration interview as long as two years after their arrival, and many stay on in the squalid detention centers for years after that. Should the asylum-seeker have cause to raise a claim after the completion of the screening process, there is no formal mechanism to do so in Hong Kong law.

Asia Watch urges the Hong Kong authorities to protect these groups from deportation. We also call upon Britain and Vietnam to issue assurances that no person with a genuine refugee claim will be deported, regardless of whether that claim arises before or after the individual's departure from Vietnam.

Refugees *Sur Place*

Hong Kong has agreed to ensure that its screening practices in the case of Vietnamese nationals is in conformity with the standards of the 1951 Refugee Convention and its 1967 Protocol. According to these international treaties, a refugee is one who, owing to a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, is unwilling or unable to return to his or her country.⁴ Such a well-founded fear may arise at any time, before the refugee has fled his or her country, or after.

Individuals who acquire a reason to fear persecution at some time after they have left their home are known as refugees *sur place*. The UNHCR Handbook, recognized by most states as an authoritative interpretation of the 1951 Convention and 1967 Protocol, recognizes that such claims may arise due to circumstances in the country of origin at the time of the refugee's absence, or as a result of the refugee's own actions, such as associating with other individuals recognized as refugees or expressing

⁴ 1951 Refugee Convention, Art. 1, ¶ 2 and 1967 Protocol, Art. 1.

political views.⁵ For example, Canada has recognized the case of a Palestinian from Israel who would be considered politically undesirable because of study in Cuba⁶ and the U.S. has protected an Iranian student who was accused of seeking asylum by an embassy official.⁷ Recognition and protection of refugees *sur place* is codified in the practice of many countries, including France, Germany, and the United States.⁸ Even Hong Kong has extended protection to Vietnamese in special circumstances, such as when individuals with special jobs or access to sensitive information have been interviewed by the colony's intelligence-gathering agency, the Special Branch.

But there are many other situations where a Vietnamese asylum-seeker may be imperiled.

- # Persons who have formed political groups opposed to communism, where the group and its membership have become known to Vietnamese authorities. One such case involved 39 individuals who sent a letter declaring their organization to the United States, along with a statement of their plan of action should they return to Vietnam, their names, camp identity numbers, and a photograph of their founding ceremony. The letter was returned by the U.S. Postal Service "address unknown" to Ho Chi Minh City instead of to Hong Kong. The letter and envelope were forwarded from Vietnam to Hong Kong opened and without the accompanying documents.⁹
- # Persons who have had their claims of persecution or complaints against the communist government of Vietnam extensively publicized in the media. This would include persons who have challenged Hong Kong's screening system and whose claims received media attention.
- # Persons who are known to have organized demonstrations against forced return to Vietnam;
- # Publishers, editors, writers and artists who have produced works in Hong Kong that are implicitly or explicitly critical of the Vietnamese government or communist party, and have been published and circulated in Hong Kong or abroad.

In evaluating these types of claims, the Handbook instructs that "[r]egard should be had in particular to whether such actions may have come to the notice of the authorities of the person's

⁵ Office of the United Nations High Commissioner for Refugees, *Handbook on Procedures and Criteria For Determining Refugee Status*, ¶ 94, 95 (Geneva: January 1988, HCR/IP/4/Eng.).

⁶ 1989 Convention Refugee Determinations Decisions No. 51, No. M89-01416E (1970) (Canada).

⁷ *Matter of Mogharrabi*, Interim Decision 3028 (BIA June 12, 1987) (U.S.).

⁸ See, e.g., Journal Officiel de la République [J.O.], 1985 May 17 Circular II B 2 (France) (providing for halt in deportation proceedings upon a showing that refugee would be exposed to grave risk upon return because of a change in circumstances in the home country); 11 V G A 7/12/86 Verwaltungsgericht Hamburg (1990) (Germany; recognizing claims based on "post-flight reasons,"); 8 U.S.C. 1101(a)(42) (1980). 8 C.F.R. §§ 208.13(b)(2)(ii), 208.16(b)(4) (1991) (act of seeking asylum can be basis of a refugee claim).

⁹ Jonathan Braude, "US postmen put rebel Viets' lives at risk," *The South China Morning Post*, February 2, 1992.

country of origin and how they are likely to be viewed by those authorities.”¹⁰

Vietnam has shown great interest in the population in Hong Kong’s camps, asking persons who volunteer to return to identify “troublemakers,” Vietnamese who work with foreigners or foreign voluntary agencies, clergy, and publications. Whether such fears are justified or not, most Vietnamese in the detention centers believe that there are informants for the Vietnamese government in their midst. Publications from the camps have been confiscated from Vietnamese upon their return. Vietnam also closely monitors the overseas Vietnamese press. One example can be seen in the impending prosecutions of Dr. Doan Viet Hoat and seven other Saigon intellectuals, who published a newsletter called *Dien Dan Tu Do* (*Freedom Forum*). This publication went unnoticed until one of the group visited Canada and the United States, bringing several issues with him. These were republished by a Vietnamese–American paper, and led to the group’s arrest in late 1990. There is no reason to believe that the Hong Kong Vietnamese press is not under similar scrutiny. Persons who volunteer for repatriation are routinely questioned by Vietnamese officials if they know any “troublemakers” in the camps, the origin of any literature they might bring with them, and the identity of persons who work with foreigners and voluntary agencies. One returnee in Quang Ninh province in northern Vietnam wrote his relatives who remain in Hong Kong as follows:

Do you know that now in Vietnam overseas publications like “Viet Nam Hai Ngoai”, “Lang Van,” etc.—those that you often read, are widely circulated. People really like to read those publications. Initially, people just borrowed them from each other to read. Now, since the demand is high, people have to rent them to read, even copies that are already all in pieces. As for the authors of those articles in *Viet Nam Hai Ngoai*, *Lang Van* etc., they have been marked by the security police, including you, brother. So, we advise you in particular and your colleagues in general not to return to Viet Nam at any price. If you return, we believe prisons will be there to welcome you and your colleagues.¹¹

On the question of how Vietnam is likely to perceive political opposition or criticism of its government or the communist party, the country’s criminal code is one helpful reference. Under the chapter titled “The Crimes Against National Security,” can be found:

- # Article 81, “The crime of undermining the policy of unity” which punishes a wide range of social criticisms, such as “causing divisions among the various strata of the people, between the people and the armed forces, between the people and the people’s government, or between the people and social organizations;” “separating religious followers from the people’s government and social organizations;” and “sabotaging the implementation of the policy of international solidarity.” The penalty ranges from 2 to 15 years in prison.
- # Article 82, “The crime of anti-socialist propaganda,” which punishes not only “spreading propaganda against the socialist system” but also “making, storing or circulating anti-socialist

¹⁰ Handbook, ¶ 96.

¹¹ Letter dated March 2, 1992 (names withheld).

documents or cultural products." The penalty ranges from 3 to 20 years in prison.

- # Article 83, "The crime of disrupting security," which punishes anyone who "incites, persuades or assembles many persons to disrupt security, resist persons in the performance of their public duty, or obstruct the activities of state agencies or social organizations with the intent to oppose the people's government." The penalty is from 3 to 15 years in prison.
- # Article 86, "Crimes against a fraternal socialist state," which punishes any of the above crimes committed "with the intent to oppose a fraternal socialist state" according to the penalty for each crime.
- # Article 73, "The crime of taking actions to overthrow the people's government," a capital charge which has recently been levied against such non-violent advocates of political and social change as Dr. Nguyen Dan Que, sentenced to 20 years' imprisonment on November 29, 1991, and Dr. Doan Viet Hoat, whose trial is still pending.

If this litany leaves any doubt that public criticism of Vietnam's political order is subject to harsh sanction, it is banished by the current practice of the judiciary and public security forces. On May 15, 1992 Doan Thanh Liem, a lawyer arrested for his association with the American businessman Mike Morrow, was sentenced to 12 years for "anti-socialist propaganda." The evidence used to convict him was as follows: an article he received from a Catholic friend in the United States on the role of religion in the changes in East Germany; notes he had written in a private diary on the shortcomings of Vietnam's educational system and moral guidance for youth; 16 typed copies of a five point draft proposal for government reforms, on one of which Liem had handwritten "the party should cease its monopoly on governing" and "the National Assembly should dissolve itself;" and two copies of a letter from Archbishop Thomas Sech of Czechoslovakia. But sanctions are not reserved for well-known figures in the religious or intellectual community. On July 18, 1992 police arrested a man suspected of distributing leaflets that said Vietnam's recent National Assembly elections (in which all but two independent candidates were disqualified) were undemocratic.¹² Earlier, on the occasion of Vietnam's first international runners' marathon, public security officials arrested a man in the crowd who unfurled the flag of the former Republic of Vietnam.¹³

The agreement on deporting Vietnamese who arrived in Hong Kong before October 29, 1991 includes a promise that Vietnam will not punish persons for having left the country clandestinely.¹⁴ It does not, however, include a promise that Vietnam will not punish people for acts committed in Hong Kong. Indeed, Vietnam's Criminal Code, Article 6(1) provides that a Vietnamese citizen "who commits a crime outside the territory of the Socialist Republic of Vietnam may be investigated for criminal liability within Vietnam in accordance with this code of law."

¹² Kathleen Callo, "Vietnam Votes for Assembly, Leaflet Man Arrested," *Reuters*, July 19, 1992.

¹³ Don Kardong, "Good Morning, Vietnam," *Runners World*, p. 97 (June 1992).

¹⁴ Correspondence from S.D. Pattison, First Secretary, British Embassy, July 10, 1992.

What is supposed to prevent Vietnam from prosecuting returnees for political crimes is Hong Kong's commitment not to return genuine refugees. However, there is no mechanism in Hong Kong's immigration law whereby asylum-seekers¹⁵ have the right to assert at any time a claim to refugee status based on events or acts that transpired since their arrival in the colony. There is no effort made to inform asylum-seekers that they can make such a claim, and indeed, there is virtually no counseling of any sort for those who are about to undergo screening.¹⁶ Many Vietnamese who might make a claim based on events during their stay in Hong Kong have already been "screened out" by the Hong Kong Immigration Department and rejected on appeal by the Refugee Status Review Board. The UNHCR, at its discretion, reviews a small fraction of the cases rejected by the Hong Kong authorities, but there is no way for the asylum-seeker to compel such review as of right. Even where there is review, the UNHCR has not consistently recognized refugee *sur place* claims. Three of Do Giao's fellow plaintiffs in the much-publicized "judicial review" of Hong Kong's screening procedure were denied mandate protection, despite wide reporting of their claims.¹⁷

Ethnic Nung

Among those who are eligible for forced repatriation are a group of ethnic Nung soldiers or relatives of soldiers who fought for the French and American forces in Vietnam, and who have suffered persecution in post-1975 Vietnam because of their ethnicity and past allegiance. These people, most of whom were condemned to virtual penal labor regimes in harsh "New Economic Zones," were subjected to cursory interviews under Hong Kong's notorious "fast track" procedures. As a consequence, many have not had an opportunity to tell their story, nor have Hong Kong authorities reviewed their claims with an understanding of this group's history before and after 1975.

In response to a petition from over one hundred ethnic Nung, Asia Watch conducted interviews in 1991 with Nung individuals held in two different camps in Hong Kong. As a result of this research, Asia Watch concluded that many ethnic Nung have been singled out for persecution because of their ethnicity and historical alliance with the American, French and South Vietnamese militaries. For this reason, many younger Nung now identify themselves simply as "Chinese" (Nung consider themselves a Chinese sub-group), in order to avoid the stigma of having fought against the Vietnamese communists. Apart from those who have been screened out, there are possibly thousands of ethnic Nung in other detention centers in Hong Kong, yet to be screened, most of whom are incorrectly regarded by the Hong Kong authorities as ethnic Chinese of southern Vietnam.

1. Background

¹⁵ It should be borne in mind that Hong Kong applies the protections of international refugee law only to Vietnamese nationals, and not to asylum-seekers from China or other countries. Britain chose to exempt Hong Kong from application of the Convention and Protocol.

¹⁶ See Asia Watch, "Indefinite Detention and Mandatory Repatriation," at p.9.

¹⁷ See, e.g. Barbara Basler, "Boat People to Fight Hong Kong in Court," The New York Times, February 20, 1990.

The "Nung" are a distinct ethnic minority from northern Vietnam near the Chinese border¹⁸, whose history, marked by semi-autonomous rule and periodic insurrection against Vietnamese imperial control, may date back as early as the eleventh century.¹⁹ In the twentieth century, Nung were recruited by the French into battalions to fight the Viet Minh in exchange for some autonomy in their affairs.²⁰ Following the Geneva Convention in 1954, large numbers of Nung migrated to the South, following their leader, General Vong A Sang.²¹ Some battalions initially remained intact, as shown by Ngo Dinh Diem's summons of several Nung battalions from Phan Thiet in Tongking (where they were responsible for the security of an autonomous zone around Mon Cay) to Saigon to defend him against a brewing religious revolt.²² Nung units survived in the Army of the Republic of Viet Nam (ARVN), but the Americans were particularly receptive to their recruitment, and they came to participate in mobile strike units such as the 5th Infantry Division and the 81st Airborne Ranger "Battalion," Special Forces units, the Delta, Omega and Sigma forces, and mobile guerrilla units.²³ Nung were highly valued as guards for the Special Forces, the CIA-sponsored Phoenix program and high-ranking Vietnamese military and civilian leaders.

Nung leaders made their way into the legislature of South Vietnam, and were represented by the Ministry for Ethnic Minority Development. Nung children who had a father die in military service were eligible for special officer training schools, such as Thien Sinh Quan Pleiku and Thien Sinh Quan Vung Tau. Like other minorities recruited by the U.S., Nungs were paid on a preferential scale to Vietnamese, reflecting the perception they were especially trustworthy and loyal.

Nung resistance groups continued to carry out low-level guerilla activities after the war ended in April 1975. Ly Pha Sang, a former Nung general, led one such group in the area of Tan Phu, Dong Nai province. According to Nung informants, a number of post-1975 films and novels continued to

¹⁸ There is some dispute over whether the Nung are part of the Tay peoples of the region, or the Chinese. Cf. Chu Van Than, *Reminiscences on the Army for National Salvation*, p. 4 (Introduction) Data Paper No. 97 (Southeast Asia Program, Department of Asian Studies, Cornell University, September 1974) and Jeffrey J. Clarke, *Advice and Support: The Final Years, 1965 - 1972* (Washington D.C.: Center of Military History, United States Army 1988). The Nung themselves say they are more closely related to the Chinese, and teach their children to write their dialect using Chinese characters.

¹⁹ Thomas Hodgkin, *Vietnam: The Revolutionary Path*, pp. 37, 115 (New York: Macmillan, 1981). The Nung may be descendants of Nung Ton Phuc and Nung Tri Cao, father and son who led tribal rebellions against Vietnamese authority in 1036 and 1041 respectively. Nung Tri Cao was ultimately pardoned and made a guardian of Vietnam's northern frontier. In 1833, Nong Van Van, whom Hodgkin describes as a Tay from Bao Lac, Cao Bang, led a rebellion with the aim of creating a separate Tai-Nung state in the areas of Cao Bang, Tuyen Quang, Thai Nguyen and Lang Son.

²⁰ See appendix; see also Ellen J. Hammer, *The Struggle for Indochina*, p. 162 (Stanford University Press, 1954) who describes a French proposal to the Vietnamese communists at the Dalat Conference of 1946 for an Inspector of Minorities and representation of the Nung in the governments of both Vietnam and the Indochinese Federation.

²¹ Fifteen thousand Nung refugees went south according to the General Commission for Refugees. Gerald Hickey, *Free in the Forest*, p. 16 (Yale University Press, 1979).

²² Donald Lancaster, *The Emancipation of French Indochina*, p. 384 (Oxford University Press, 1961).

²³ Clarke, *Advice and Support*, pp. 72; 204-5; 311-12.

portray the Nung as insurgents and enemies of the government.²⁴

2. Treatment After the War's End:

After 1975, the communist government promulgated regulations barring Nung from state-sector employment, tertiary education and association with any communist mass organization. Communist party members who married Nung were liable to expulsion from the party. Such regulations were easily enforceable because Nung ethnicity was recorded on identity cards, although children of Nung soldiers often changed their ethnic group to "Chinese" to avoid the stigma. But these official restrictions, which Nung informants claim have never been repealed, were the least of the burdens imposed by the communists on their former enemies.

Most Nung interviewed by Asia Watch were resettled in New Economic Zones in 1976. This was in accord with the Party's stated policy to move people out of the overcrowded urban areas and to bring new land into cultivation. Official policy was to offer a combination of inducements and coercive measures to get targeted families to move. These included the promise of a settlement allowance, and denial of housing and jobs in their urban homes. In the case of the Nung, confiscation of businesses and property were also used to enforce the policy. An unstated aim of the relocation policy was to move potential enemies of the new communist government out of urban areas. Among the groups targeted for removal were families of persons connected to the South Vietnamese military and government, ethnic Chinese and Montagnards, and of course, the Nung. Some zones were viable agriculturally, but often those for political exiles were not. As a consequence, vast numbers of people have fled them, thereby losing their official household registry and normal rights of citizenship.

Interviews show that many Nung families were singled out for relocation to particularly harsh areas in Dong Nai province. Whereas ethnic Vietnamese (in non-punitive relocations) were given a settlement allowance and placed on cleared land, Nung were generally delivered to jungle areas which they had to clear with explosives. Nung were particularly susceptible to petty extortion from local officials in the form of expropriation of land they cleared, or exorbitant or premature tax assessments.

Life in these settlements often resembled servitude. Each community had a security supervisor who controlled virtually every activity. Families would be told what to plant and where to plant it, and would be required to give their entire crop to government collectors in exchange for rations. In some places, Nung would have to donate a day each week, or several months each year to unpaid corvee labor; in others they were required to work 28 days each month in order to earn the full complement of work points. Even so, rations, often given in the form of old storehouse rice, seldom lasted more than a third of the year, so that foraging in the jungle or eating grass was essential for survival. Permission to grow other crops, to trade or to engage in other occupations was routinely denied. In order to leave the settlement for brief trips, inhabitants had to apply for permission as well. Medical and educational facilities were non-existent. Police forbade private teaching of Chinese among Nung

²⁴ The film "Vu An Ho Con Rua" (The Turtle Lake Affair) and the novel "Tieng Goi Dem Cho Sang" (Sounds in the Night while Waiting for the Dawn), the latter of which describes Ly Pha Sang, were two examples mentioned.

families, enforced by fines and threats of imprisonment, and banned ancestor worship as well. Although Nung value education, it is rare to find young people who have more than primary education, and many children are less educated than their parents.

Fatalities in these zones were high. Many died from explosions when clearing the land. Malnourishment, eating poisonous plants foraged in the jungle, and lack of medical care claimed the lives of many children. One informant estimated that about 50 persons died annually in one settlement of 400. Those who fled the zones had to take on a life of hiding with friends or family, undocumented and without ordinary civil rights. Another informant was chased by police from a village to which he had fled when flooding destroyed his home in the zone; local authorities, however, helped his ethnic Vietnamese neighbors resettle in other communities.

Those who remained in their zone faced a lifetime of particular vulnerability to official abuse. Soldiers who managed to hide their military career lived in constant fear that it would be discovered, and they would be punished. Asia Watch interviewed persons whose military career had not been discovered until as late as 1989; in one case, the individual fled after he was summoned for police interrogation. In other cases, an individual who was identified with the military would be marked for life for special attention by the security forces. One informant, who was held for "reeducation" for only a week, was nevertheless exiled to a zone and arrested three times in the next 13 years on various pretexts for being "anti-government."

3. Inadequate Screening Procedures in Hong Kong:

Many Nung were processed under the notorious "fast track" procedure of early 1990, whereby persons were given cursory interviews and expedited appeals shortly after their arrival in Hong Kong. The Nung generally complain that interviewers were unsympathetic and bullying, and that they were not able to communicate with the immigration authorities or their translators in either fluent Vietnamese or fluent Cantonese. Furthermore, neither the Hong Kong immigration authorities nor the Refugee Status Review Board are familiar with the Nung people, their record during Vietnam's long war, or their treatment subsequently.

Informant X's experience is typical. X has been rejected as a refugee and has lost his appeal. One of the first of the so-called "fast track" cases processed in early 1990, he was interviewed in Green Island just days after his arrival in Hong Kong. He had one session with an immigration officer, who took his life story up to 1981, all the while banging a fist on the table and warning X that he should only answer the questions asked and add nothing else. X's UNHCR-appointed appeals lawyer listened to his story up to 1983 but advised him not to add any information that the immigration officer had not recorded lest his credibility be thrown in doubt. His interview with Asia Watch was the first time he told an outsider his entire history. Under similar circumstances, where an Immigration interviewer erroneously reported critical details of the asylum-seeker Do Giao's history, Hong Kong's courts found the procedure so unfair as to require a fresh hearing.

Many Nung have petitioned both the UNHCR and Hong Kong's Legal Aid to review their cases, to no avail. UNHCR will not discuss the standards which it applies to these cases, but it apparently

discounts exile to punitive New Economic Zones, denial of medical and educational facilities, and the black-listing of ex-soldiers in public security dossiers as too common to be evidence of persecution, despite clear evidence that certain groups were singled out for such treatment. According to the UNHCR Handbook, discriminatory measures may amount to persecution if they lead to "serious restrictions" on the right to earn a livelihood, the right to practice a religion, or access to normally available educational facilities.²⁵ Less serious restrictions may also amount to persecution where "they produce, in the mind of the person concerned, a feeling of apprehension and insecurity as regards his future existence."²⁶ Nor does Hong Kong's Legal Aid service provide any relief for these asylum-seekers. Following the case of Do Giao, who won only a rehearing and not a determination that he was a refugee, Legal Aid has refused all challenges to the screening procedure for Vietnamese.²⁷

Conclusion

Asia Watch urges that immediate steps be taken to protect the groups described above.

Members of these groups should not be deported until their cases are thoroughly reviewed. Evaluation of claims should be conducted in view of the particular history of these groups and conditions in Vietnam, in accordance with international standards which give the asylum-seeker the benefit of the doubt in matters not susceptible to proof.

Vietnam and Britain should publicly affirm that under no circumstances will genuine refugees be forced back, regardless of the time their claim arose.

Should members of a suspect group be forced back, their condition should be subject to close monitoring by international agencies, with the full cooperation of the Vietnamese authorities. In any case where Vietnam chooses to bring legal proceedings against asylum-seekers that have been deported, it should open these proceedings to international observers and journalists.

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²⁵ UNHCR Handbook, Art. 54.

²⁶ UNHCR Handbook, Art. 55.

²⁷ See "Indefinite Detention and Mandatory Repatriation," p. 10.

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Asia Watch was founded in 1985 to monitor and promote internationally recognized human rights in Asia. The Chair is Jack Greenberg and the Vice-Chairs are Harriet Rabb and Orville Schell. The Executive Director is Sidney Jones and the Washington Director is Mike Jendrzeczyk.

Asia Watch is part of Human Rights Watch, which also includes Africa Watch, Americas Watch, Helsinki Watch, Middle East Watch and the Fund for Free Expression. The Chair of Human Rights Watch is Robert L. Bernstein and the Vice-Chair is Adrian DeWind. Aryeh Neier is the Executive Director and Kenneth Roth is the Deputy Director. Holly Burkhalter is the Washington Director.

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Asia Watch Issues Urgent Appeal on Behalf of Vietnamese Refugees at Risk

The New York based human rights group Asia Watch today made an urgent appeal to the Hong Kong government to protect two especially vulnerable groups of Vietnamese from forced return to Vietnam where they may face persecution.

In a report entitled "Refugees at Risk," Asia Watch exposed the plight of members of the Nung minority used as mercenaries by France and the United States during the Vietnam War, and persons who are liable to be punished as "counter-revolutionaries" by Vietnam because of their statements or associations during their long stay in Hong Kong.

The Nung, some of whom are former soldiers, could be returned to exile in harsh New Economic Zones where many have faced deprivation of their civil rights, police abuse, and forced labor requirements. As an example of the second group, the report cites the case of an "anti-communism" club whose appeal for support from American groups was misdirected by the U.S. postal service to Ho Chi Minh City, where the membership list was removed from the letter before it was returned to Hong Kong.

Asia Watch observed that in the latter group are individuals who could be sentenced to death for political crimes under present Vietnamese law. Among the Nung, people could be sent right back to localities where they were persecuted before. That last minute appeals are still necessary shows that Hong Kong's screening procedures are still inadequate to protect genuine refugees.

Under the terms of the latest unpublished agreement on the deportation of boat people, Vietnam has promised not to punish persons for the act of illegally leaving the country. Vietnam still reserves the right to punish returnees for other crimes, including political offenses.

Asia Watch, which does not oppose deportation in principle, urged that Hong Kong protect individuals in these groups from forced return to Vietnam.t. 54.j