



# សហព័ន្ធខ្មែរកម្ពុជាក្រោម

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## **Vietnam: Arrest Indigenous for Distributing UN Document; Claim Undermine National Unity**

On April 19, Khmers Kampuchea-Krom Federation (KKF) published a detailed Report about arresting of a Khmer-Krom Youth, Duong Khai, by the Vietnamese government for merely obtaining and distributing the United Nations Declaration on the Rights of Indigenous Peoples (UN DRIP).

In June 2021, four UN Special Rapporteurs (*Fernand de Varennes, Special Rapporteur on minority issues; Irene Khan, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Mary Lawlor, Special Rapporteur on the situation of human rights defenders; José Francisco Cali Tzay, Special Rapporteur on the rights of indigenous peoples*) wrote a Joint Allegation Letter to the Government of Vietnam concerning the arrest of Duong Khai.

On September 20, 2021, for the first time ever, Vietnam responded to the UN Special Rapporteurs, having ignored a decade of concerns raised by Human Rights Council special procedure, Vietnam finally admitted to arresting Duong Khai for only sharing a UN Declaration that was already adopted. The fallacy arguments being used by Vietnam in the response letter are disturbing. First of all, Vietnam argues that "*the notion of 'indigenous ethnic group' and the rights of indigenous peoples do not exist and are not in accordance with the characteristics of Viet Nam's ethnic groups.*" Vietnam is denying the existence of millions of the indigenous peoples in Vietnam. There is ample evidence that Vietnam understands indigenous peoples' rights in international law through their numerous UN annual meetings as well as the adoption of Universal Declarations.

Suppose there are no indigenous peoples in Vietnam. Why does Vietnam send representatives to attend the United Nations Permanent Forum on the Indigenous Peoples (UN PFII) every year since the Khmers Kampuchea-Krom Federation (KKF) has participated at the UN PFII since 2004? Vietnam signed to adopt the UN DRIP in 2007 and continue to deny the existence of the indigenous peoples within its border. Vietnam must respect the right to self-identify of the

indigenous peoples in Vietnam. Does Vietnam ask if the indigenous peoples agree to be labelled as "ethnic minority"?

In Paragraph 3 of the response, Vietnam mentioned that "*The propaganda of instruments and conventions on human rights is not prohibited in Viet Nam.*" First, UN human rights and conventions are not propaganda, but make the basis of the internal rules of law. Then, Vietnam used the contradictory argument "*Vietnamese laws strictly forbid the abuse of propaganda of instruments and conventions on human rights to distort and spread false news on Viet Nam's policy of promotion and protection of human rights, to sow division and undermine national unity.*" If the documents of the UN conventions can be used to "*undermine the national unity,*" then does the Vietnamese government mean that the documents of the UN conventions are not good to be distributed in Vietnam?

The Vietnamese government keeps using the tactic to accuse the indigenous peoples in Vietnam of advocating to form their own state so that Vietnam can use that as the legal reason to arrest the indigenous peoples. The indigenous peoples always desire to exercise their rights enshrined in the UN DRIP for simply attempting to exercise one of the most simple rights to share the information. Unfortunately, a Khmer-Krom youth, Duong Khai was arrested. Surprisingly Vietnam used the same tactic to explain to the Special Rapporteurs that Duong Khai shared the documents containing the "*propaganda for the establishment of 'Khmer Kampuchea Krom State' in the territory of Viet Nam.*" If this is true, Duong Khai has already been arrested and imprisoned because it violates Article 88 of the Penal Code, prohibiting "conducting propaganda against the Socialist Republic of Viet Nam." Vietnam has been known to use Article 88 to imprison the activists.

As the indigenous peoples of the Mekong Delta, the Khmer-Krom must have the right to enjoy the right to self-determination as enshrined in the numerous international human rights laws that Vietnam voluntarily signed and ratified with the United Nations, especially in Article 3 of the UN DRIP. Thus, if the Khmer-Krom exercise any rights enshrined in the 46 articles of the UN DRIP, then Vietnam should uphold internal laws and not continuously violate the rights of the indigenous peoples. Furthermore, if the Khmer-Krom in Vietnam demands the right to self-determination, it is a legitimate demand, not propaganda to misinterpret "*the content and spirit of the Declaration.*"

In Paragraph 6, Vietnam used the false evidence that "*the competent authorities invited Duong Khai to the police station to clarify (the invitation was sent to Duong Khai).*" In reality, the state intimidated, arrested, and dragged a youth to the police station without legal justification. About a hundred Vietnamese police raided Duong Khai's house around 4 pm on April 13 without a warrant. No invitation was sent to Duong Khai. Duong Khai refused to cooperate because the Police did not have a warrant and raided his house illegally. For six hours, the police remain in a private dwelling, harassing Duong Khai and his family members. Unfortunately, this is not the end. Duong Khai was arrested, held unlawfully in the police station until noon of the next day.

At the police station, Duong Khai faced mental torture because he was continuously questioning by five police officers for over twelve hours. According to Duong Khai, when the Police

questioned him, the Police recorded the conversation. When the Police intimidated and threatened to beat him up for the confession, the Police immediately turned off the video recording. Because of using that tactic, Vietnam could easily respond that "*The policemen did not threaten to use of force against Duong Khai.*" It shows that Vietnam violated the International Covenant on Civil and Political Rights.

Vietnam used the argument that Duong Khai "did not prove the legitimation of printing, publishing" of the UN DRIP and framed him for violating the "*Viet Nam's legal provisions in the field of press and publication.*" In Vietnam, the press and publication are controlled by the government. Vietnam should appreciate what Duong Khai has done because he merely printed the UN DRIP to distribute for the indigenous peoples to learn. That action should be empowered and not be treated as a crime. Printing the UN DRIP for the indigenous peoples to learn about their rights in Vietnam should be the responsibility of the Vietnamese government.

Vietnam's response is factual evidence showing that there is no freedom of press and opinion, especially the right to self-identify as the indigenous peoples are not respected and meet harshly by the police on the innocent youth. This incident illustrates how numerous rights are denied daily in Vietnam. It is time for the international community to rethink doing business with Vietnam, which is a country that does not respect the fundamental rights enshrined in the Treaties and Declarations that Vietnam adopted, signed and ratified with the United Nations.