



**Protection of Minorities in Vietnam**  
**An Analysis of Human Development and Fulfilment of**  
**Rights for the Ethnic Minorities**  
**in the Central Highlands**

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Raoul Wallenberg Institute, University of Lund  
Supervisor: Professor Gudmundur Alfredsson

## *PREFACE*

This thesis is submitted as a partial fulfilment of the requirements for the European Master's Degree in Human Rights and Democratization. The work has been performed at the Raoul Wallenberg Institute, University of Lund during spring 2004. Professor Gudmundur Alfredsson has supervised the work. I am grateful for the competences this master has provided me with, and the encouragement as well as approval of the project from my supervisor. Part of the thesis is based on empirical material collected in May and June 2004 during a field trip to Vietnam, where 17 interviews were made with Danish and Vietnamese staff working in the field of developmental aid. The opportunity to go to Vietnam to make the interviews for this thesis came via financial support from RUF, a research institution connected to Danida (Danish Development Aid).

The objectives of the research work were formulated in advance of the field trip to Vietnam. Included were visits to ongoing Danida projects in the Central Highlands. However, I had to change the research question due to travel restrictions in the Central Highlands. When contacts were established to staff working on Danida projects in the area, the region was open for foreign visits. However, widespread demonstrations led by the ethnic minorities in the area occurred during Easter 2004 and after that, the area has been more closed for foreigners than usual is, and I never got the permission from the local Peoples Committee to enter the area. Consequently, research was limited to interviews and no visits were made to the ongoing Danida projects. Instead I met with a broad range of people, Vietnamese as well as foreigners, with knowledge about and working experience from the Central Highlands. Some of the interview persons requested me not to quote them directly when talking about sensitive topics and these requests have been respected.

The above illustrates the sensitivity of working with ethnic minorities in the Central Highlands. It would not have been insecure to visit the projects, but the Vietnamese staff working in the projects found the possible visit very risky for their security.

Anette Larsen

Lund, 16<sup>th</sup> of July, 2004.

## Table of Content

<i>PREFACE</i>	<i>1</i>
ABSTRACT	4
CHAPTER 1: INTRODUCTION	5
1.1. Research Question	6
1.2. Cross-cultural Approach of Understanding	7
1.3. Structure	8
1.4. Methodology	8
CHAPTER 2: THE ETHNIC MINORITIES IN THE CENTRAL HIGHLANDS	10
2.1. Presentation	10
2.2. A History of War and Conflict	11
2.3. The Present Situation	12
CHAPTER 3: CROSS-CULTURAL APPROACH TO HUMAN RIGHTS	14
3.1. Theoretical framework	14
3.2. International Pressure on Repressive States	14
3.2.1. Critique of the Approach	17
3.3. The Cross-cultural Approach	18
CHAPTER 4: HUMAN RIGHTS PROTECTION IN VIETNAM	21
4.1. Addressing Human Rights in Vietnam	21
4.2. Lack of Human Rights Protection	21
4.3. Formal Rights for the Ethnic Minorities	22
4.4. Ethnic Demonstrations in the Central Highlands	24
4.4.1. Minorities or Indigenous Peoples	28
4.5. Vietnam: A Repressive State	30

CHAPTER 5: A RIGHT TO HUMAN DEVELOPMENT	33
5.1. Understanding the National Partner	33
5.2. The National Basis for Human Rights	33
5.2.1. National Centralism	34
5.3. Interlinking Human Rights in Vietnam	36
5.3.1. The Right to Human Development	38
5.3.2. The CPRGS in an International Perspective	40
5.3.2.1. The CPRGS and Human Development	43
5.3.3. The Grassroots Democracy Decree	44
5.3.3.1. The Grassroots Decree and Human Development	45
5.4. Is a Right to Development Occurring?	46
CHAPTER 6: IMPLEMENTATION IN THE CENTRAL HIGHLANDS	47
6.1. Poverty Reduction Projects in the Central Highlands	47
6.2. The Participatory Approach	47
6.2.1. The Participatory Approach in the Central Highlands	48
6.2.2. Projects Banned by the Authorities	54
6.3. Obstacles and Possibilities in the Central Highlands	56
6.4. A <i>real</i> Right to Participation?	59
CHAPTER 7: CONCLUSION	60
CHAPTER 8: REFERENCES	63
Annex 1 : Map of Vietnam	72
Annex 2 : The Political Structure in Vietnam	73
Annex 3 : Example of the Participatory Approach	74

## ABSTRACT

The ethnic minorities in the Central Highlands in Vietnam are among the poorest groups in the country, and they are denied basic civil and political rights. When they gather in demonstrations, the government is responding with force. This thesis aims at addressing the gap between the human rights, the ethnic minorities are entitled to, and the real fulfilment of these.

The position taken is that the Comprehensive Poverty Reduction and Growth Strategy and the Grassroots Democracy Decree do establish a new participatory approach in Vietnam that aims at providing the ethnic minorities with capabilities to develop out of poverty. However, the empirical analysis leads to the conclusion that widespread corruption, and a governmental harassment towards the ethnic minorities in the Central Highlands is an obstacle against its real implementation.

The main finding of this empirical analysis is that the ethnic minorities in the Central Highlands have not experienced an increased real protection of their human rights, nor have they gained human capabilities that enable them to develop out of poverty. However, a potential for increased implementation of human rights exists, as the participatory approach has been formulated in official strategies. Cooperation with international donors will promote further realisation hopefully leading to a future elimination of the governmental hostility towards a real implementation of human rights in the Central Highlands.

## CHAPTER 1: INTRODUCTION

“The minorities are now our brothers, and if we want them to progress, want them to develop their culture, then we must wipe out prejudice between the nationalities; we must promote solidarity, and we must love one another like brothers under one roof”.

Ho Chi Minh, 1955<sup>1</sup>

The ethnic minorities in the Central Highlands of Vietnam gathered in demonstrations in the early 2001 and again during Easter 2004. It took everybody by surprise and shocked the Vietnamese authorities, because national unity and ethnic harmony had always had a very high priority on the political agenda in Vietnam. Years with war against the French, the Americans, and the Chinese taught the Vietnamese to mobilise all forces including the ethnic minorities, and they expected all resistance from the ethnic minorities to have been eliminated by now. The central government in Hanoi had to react, which it did both by bringing security forces in action as well as by directing development programmes and financial resources to the provinces involved.<sup>2</sup> However, poverty reduction strategies seem to lack any progress among the ethnic minorities in the Central Highlands since they are among the poorest groups in Vietnam.<sup>3</sup> In spite of the political efforts to unite the ethnic groups in Vietnam and eliminate the ethnic tensions, there is still a dividing line between them and the Kinh (the ethnic majority), who look at the minorities as a more or less backwards, and discrimination is widespread. In this thesis, focus will be set on the ethnic minorities in the Central Highlands, and the contradictory acts the Vietnamese authorities are using towards them. In centre of attention will be the possibility of promoting a human development among the ethnic people and fulfilling their rights.

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<sup>1</sup> Ho Chi Minh quoted in P. McElwee, *Becoming Socialist or Becoming Kinh? Government Policies for Ethnic Minorities in the Socialist Republic of Viet Nam*, in Christopher R. Duncan (Eds.), *Civilizing the Margins. Southeast Asian Government Policies for the Development of Minorities*, New York, Cornell University Press, 2004, p.189.

<sup>2</sup> Idem, p.182-213.

<sup>3</sup> K. Ewers, *Fattigdom, miljø og etniske minoriteter*, in T. Høyer (Eds.), *Vietnam. Fra kommandostyre mod retssamfund*, Copenhagen, Mellemlfolkeligt Samvirke, 2003, p.207.

### 1.1 Research Question

The Vietnamese government's relation to the ethnic minorities in the Central Highlands is full of contradictory tendencies. Legally the rights of the ethnic minorities are protected in the Vietnamese Constitution from 1992 (the Constitution), and strategies for their socio-economic development have been decided, but in fact the ethnic groups living in Central Highlands are denied basic rights. Therefore tensions frequently occur between ethnic people and the national security forces in the area. This thesis seeks to answer the question: **How much protection do the ethnic minorities in the Central Highlands really benefit from the rights that are formulated in the Vietnamese Constitution, and does the national poverty reduction strategy strengthen their human capabilities to escape from poverty?** Of importance for answering this research question is to analyse the gap between official human rights policies and real implementation, and therefore part of this thesis is based on an empirical research. Rights in this work are defined as all human rights (civil, political, economic, social and cultural) as they are formulated in international UN documents, as well as the right to development as it is formulated in the Declaration on the Right to Development from 1986. It is assumed that the fulfilment of human rights is based on their indivisibility insofar as the denial of one group of rights has consequences for the fulfilment of the other rights. This interlink implies that if the right to freedom of expression are oppressed, it affects the possibilities for fulfilling the social and economic rights in a negative way. In accordance with Amartya Sen's concept of human capabilities, as reflecting the opportunity or freedom to choose a life that a person values, it will be argued that a strengthening of the human capabilities among the ethnic minorities in the Central Highlands is of fundamental importance for enabling them to benefit from the rights that are formulated.

There are two things that will be in focus. First of all, it is of importance to discover the scope of human rights protection in Vietnam. Vietnam has signed a good range of international human rights documents, but that does not necessarily imply that all human rights are promoted, protected and fulfilled. What is of interest here is how the Vietnamese authorities are reacting when people are challenging the state's control, for example by participating in demonstrations like the ethnic minorities in the Central Highlands. This leads to the other important thing, namely, the difference between a state's recognition of rights on a formal and diplomatic level, and the real

implementation of the same rights in a national context. This does not only concern the ratification of international human rights documents but also nationally developed strategies, such as the Comprehensive Poverty Reduction and Growth Strategy (CPRGS) and the Grassroots Democracy Decree in a Vietnamese context. They might contain a broad range of rights, but what is of real interest is to find out to what degree they get implemented in society. The CPRGS aims at ensuring "social justice and sustainable growth" for all on an equal basis, and it has a specific focus on developing democratic participation among the citizens, among here the ethnic minorities.<sup>4</sup>

## 1.2. Cross-cultural Approach of Understanding

In this thesis there will be argued in favour of a cross-cultural dialogue instead of a confrontation policy. One has to explain and understand the national priorities in order to come up with solutions for the future which is illustrated by the quote below.

"...one must expect them [states] to have regard for their national interests and concerns, such as the preservation of sovereignty and territorial integrity. These concerns are reflected in the reluctance many states show towards the adoption of minority standards with effective monitoring procedures for the protection of minorities".<sup>5</sup>

Therefore, in order to explain the (lack of) minority protection it is important to include historical events, political changes, religious convictions, and normative influence in the analysis; both on a national level as well as in specific relation to the history in the Central Highlands in Vietnam. An understanding the national institutions, where institutions is seen as both political and legal structures as well as individuals acting under these structural limitations, is required. This leads to the *first assumption* for answering the research question: 1) National institutions determine the degree of real protection of formal rights. The *second assumption* is: 2) External actors have an effect on and can change these national institutions. It is not totally deterministic. Here external actors are primarily the international donor community, defined in this thesis

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<sup>4</sup> Socialist Republic of Vietnam, *Comprehensive Poverty Reduction and Growth Strategy (CPRGS)*, Document No.2685/VPCP-QHQT dated 21th May 2002, Hanoi, 2002.

<sup>5</sup> G. Alfredsson and E. Ferrer, *Minority Rights: A guide to United Nations Procedures and Institutions*, Minority Rights Group International & Raoul Wallenberg Institute of Human Rights and Humanitarian Law, 1998, p.4.



as the World Bank, Danida, CoreAid, Danish Red Cross, Enda, Helvetas and SCUK. Today, these international donors and international NGO's provide their aid in conformity with the aim of poverty reduction defined in the Millennium Declaration, accepting that the development *process* itself and chosen strategy are more important than the actual outcome. This put forward, the right to development and promotes poverty reduction strategies that aim at creating an inclusive human development where vulnerable groups like the ethnic minorities in the Central Highlands strengthen their capabilities. However, the influence from the international donors has to be seen in connection to national events in Vietnam. Donors can not impose strategies that the national partner is not ready to accept. Therefore, there has to be an interaction between influence from the international and national partners.

### **1.3. Structure**

The structure of this thesis is as follows: First an introduction of the historical past in the Central Highlands of Vietnam, followed by a presentation of the theoretical framework for the analysis; the five-phased "spiral-model" and the cross-cultural approach. The next chapter is an analysis of the present human rights situation in Vietnam in general as well as according to the scope of minority protection. This leads to a presentation of the potential for human rights in a Vietnamese context, which will be set up in a cross-cultural model. Vietnam's priority of socio-economic development tools in the CPRGS and the Grassroots Democracy Decree will then be adapted to the concepts of human development. An empirical analysis of the scope of real implementation of the new participatory approach in the Central Highlands is then presented. Finally, conclusions based on the above are formulated in the last chapter.

### **1.4. Methodology**

An interdisciplinary approach is addressed using aspects from international human rights law, anthropological field study and political science. However, given my background in political science, this approach will remain the basis of the work. The research has been based on books, articles and reports supplemented with actual interviews made on location in Vietnam. The choice to carry out interviews was made in order to be able to describe the present situation in Vietnam based on factual information. In addition, it was found important to conduct research in Vietnam in

order get an on site understanding of the intercultural differences between Asia and Europe and an understanding of the difference in interpretation of same concepts.

The research interviews were made with a qualitative aim of getting new information as well as a description of how the interviewed persons understand the situation in the Central Highlands and what experience they had with donor projects in the area. The interviews were semi-structured; a few opening questions but allowing for a free flow conversation and new angles on the situation. 17 interviews were made; about half of them were planned beforehand, and half of them developed as new contacts after the arrival to Vietnam.<sup>6</sup> The interview persons represent a broad range of international and Vietnamese donor workers with experience from the Central Highlands. Contacts with representatives from the Vietnamese authorities were unfortunately not established, as it would have required a longer duration of the field trip to establish such contacts. Each interview was conducted without a tape recorder. Instead notes were taken, in order create a relaxed atmosphere and make the interview persons speak more freely. One danger by this approach is that the written interviews more or less are based on own interpretations of the spoken word. Therefore, as an interviewer one should always be aware of ones self-perception and prejudices, and try to communicate as objective as possible. During the interviews focus was put on listening without analysing in order to get knowledge of the persons "Lebenswelt" (life's world), understood as the persons own interpretations of the situations. In the subsequently interpretations of the interviews, the principles in the hermeneutical spiral were used, which implies a continued interpretation of the said word in order to obtain an understanding of the individual interviews seen together in a whole.<sup>7</sup>

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<sup>6</sup> This gives the investigation a random character, however, it was caused due to travel restriction to the projects that was planned to visit, and therefore the research topic changed during the field trip.

<sup>7</sup> S. Kvale, *InterView. En introduction til det kvalitative forskningsinterview*, Copenhagen, Hans Reitzels Forlag, 1997, and, N.Gilje and H. Grimen, *Hermeneutikk: forståelse og mening*, in "Samfunnsvitenskapens Forudsetninger, Oslo, Universitets Forlaget, p. 142-174.

## CHAPTER 2: THE ETHNIC MINORITIES IN THE CENTRAL HIGHLANDS

### 2.1. Presentation

“The term ‘modern’ usually implies a state of advancement, betterment, progress, even goodness or virtue. That is to say, it claims superiority over its counterpart, the premodern and traditional”.<sup>8</sup>

The Kinh (the ethnic majority) conceive the ethnic minorities in Vietnam as backwards. Most ethnic minorities reside in the more remote and mountainous areas of the country and live in accordance with their traditional culture. They make up around 14% of the total population, and according to official classification, 53 different ethnic minorities are identified in Vietnam based on ethno-linguistic differences. A critique against the classification has been raised, because it is made by outsiders for political and especially military strategically reasons. Field studies indicate that many small ethnic groups are dissatisfied with being merged with larger ethnic groups, because their historical and cultural backgrounds are very different.<sup>9</sup> The ethnic distinction is not based on their own self-identification but rather as an ongoing *tribalisation* process, as one ethnographer notes, that is build on an assumed natural antagonism between the Kinh and the ethnic minorities.<sup>10</sup>

The Central Highlands (Tay Nguyen) belongs to the southern part of Vietnam and consists of four provinces (Kon Tum, Gia Lai, Dac Lac<sup>11</sup>, and Lam Dong) situated on the upland area North of Ho Chi Minh City and the Mekong Delta, West for Nga Trang and the valley of the Mekong River, and bordering to Cambodia and Lao to the East (annex 1). It is the traditional homeland for a variety of ethnic groups of which the largest are Bahnar (Bana) and Sedang (Xodang) in Kon Tum province, Jarai (Giarai) in Gia Lai province, Ede and Mnong in Dac Lac province, and Koho and Ma in Lam

<sup>8</sup> Thongchai Winichakul quoted in C.R. Duncan, *Legislating Modernity among the Marginalized*, in C. R. Duncan (Eds.) *Civilizing the Margins. Southeast Asian Government Policies for the Development of Minorities*, New York, Cornell University Press, 2004, p.1-23.

<sup>9</sup> Asian Development Bank, *Indigenous Peoples/Ethnic Minorities and Poverty Reduction*. Vietnam, Manila, Asian Development Bank, 2002, p.5.

<sup>10</sup> O. Salemik, *The Ethnography of Vietnam's Central Highlanders. A Historical Contextualization, 1850-1990*, Honolulu, University of Hawai'i Press, 2003, p.1-39.

<sup>11</sup> This year Dac Lac has been divided into two provinces and the southern part of the province is now named Dak Nom. However, because the division is done so recently, it will not be used in this thesis.

Dong province.<sup>12</sup> The indigenous population as a group has undergone many name changes. The French colonists called them *savages* or *Montagnards*, the Americans used *Highlanders*, the Vietnamese diaspora in United States call themselves *Dega*, whereas the official Vietnam classify them as *ethnic minorities*. The last term is also used by the donor community in Vietnam and will be used in this study as well.<sup>13</sup> Officially, there are no existing indigenous groups in Vietnam, only national minorities, and according to the official Stalinist national theory in Vietnam, there is no distinction between the nation and an ethnic group, and therefore no room for autonomy.

## 2.2. A History of War and Conflict

The ethnic minorities in the Central Highlands have been used (and misused) for military strategic aims of the French colonialists, the communist resistance movements (Viet Minh and Viet Cong)<sup>14</sup> and the American occupiers. First, the French missionaries and administrators entered the area in the late 19<sup>th</sup>. They wanted to create an allied against the Kinh population, and therefore they armed the minorities during the first Indochinese War (1930-1954). The French looked at the minorities as savages who they were sent to develop in accordance with evolution theories and expected their culture to disappear upon contact with the modern French civilisation. The ethnic culture were considered to be an obstacle to development since they were no more than "good-for-nothing savages, who were childlike, evil, violent, and not to be trusted".<sup>15</sup> The Vietnamese realised that the ethnic minorities could be used in their fight against the French, and in 1930 the Indochinese Communist Party's promised each ethnic minority group the right to self-determination and that any political regime they might choose would be accepted. In response, the French made the same promise of autonomy for the minorities in the Central Highlands. However, in 1954 Vietnam was divided in two at the 17th latitude and the French supported South Vietnamese Regime began a policy of assimilation and discrimination towards the Montagnards. A resettlement in the Central Highlands of Vietnamese Catholics coming from the North started, and nobody spoke about autonomy for the area. During the second Indochinese

<sup>12</sup> P. McElwee, op.sit., note 1, p.1-23, and, Independent WriteNet Researcher, *Vietnam: Indigenous Minority Groups in the Central Highlands*, in Writenet Paper No.05/2001, Geneva, UNHCR Centre for Documentation and Redearch, 2002, p.1-9.

<sup>13</sup> However, this does not imply an acceptance of them as minority groups rather than indigenous peoples.

<sup>14</sup> *Viet Minh*, League for the Independence of Vietnam, was founded by Ho Chi Minh in 1941, and *Viet Cong*, the communists in Hanoi's National Liberation Front was founded in 1960.

<sup>15</sup> O. Salemik, op. sit., note 10, p.55.

War (1960-1975) the Americans and the South Vietnamese government, the Republic of Vietnam, put the minority villagers in strategic hamlets in order to "protect" them against the Communists, who were recruiting many minorities via Viet Cong's promises of the creation of autonomous zones after the war. American Special Forces (CIA) tried to organise a counterinsurgency militia among the Highlanders in the Central Highlands and gained many supporters.<sup>16</sup>

In the end, the ethnic minorities in the Central Highlands revolted against the widespread discrimination and political fighting from both the Americans and the communists, and the creation of an ethnic resistance army, FULRO, was a fact in 1964.<sup>17</sup> In spite of many promises, any autonomy was never realised. During the war all warring parties more or less distrusted the Montagnards. On the one side, the area was the end of the Ho Chi Minh Trail by which the communist forces in the South were supplied and big parts of the forests were declared *free strike zones* by the Americans and sprayed with Agent Orange. On the other side, the communists were very suspicious against any organisations in the Central Highlands because of the heavy amounts of CIA operations in the area. Therefore after the war, the minorities were not considered as victims, rather looked upon with extreme prejudice given the attempts to undermine national integrity and sovereignty given their involvement in the war on both sides. After independence and creation of the Socialist Republic of Vietnam in 1975 many ethnic people were sent to the re-education camps, and Vietnam's central authorities based their power on the country's political integrity and meet any threats upon this integrity with confrontational methods.<sup>18</sup>

### 2.3. The Present Situation

Today, the ethnic minorities in the Central Highland are among the poorest people in Vietnam. In spite of an impressive poverty reduction in general in Vietnam, the growth is becoming more exclusive as the ethnic minorities are lacking behind. The share of ethnic minorities among the poor is increasing, from 20% in 1993 to more than 30% by 2002.<sup>19</sup> It is particular the ethnic groups living in the Central Highlands that have a big

<sup>16</sup> O. Salemik, op.sit., note 10, p.1-210.

<sup>17</sup> P. McElwee, op.sit., note 1, p.189-195., and, Independent WriteNet Researcher, op.sit., note 12, p.7-9.

<sup>18</sup> Independent WriteNet Researcher, op.sit. note 12, p.7-9.

<sup>19</sup> Vietnam Development Report 2004, *Poverty*, Joint Donor Report to the Vietnam Consultative Group Meeting Hanoi, December 2-3, 2003, p.27.

poverty rate, and 4 out of the 5 poorest groups are living here (primarily Co-ho, Ede, Giarai and Bana.<sup>20</sup> In addition, the ethnic population are losing big parts of their traditional land. Migration of Kinh as well as ethnic minorities from the Northern provinces has been very massive, and the result is that the indigenous population has become a minority in the provinces of the Central Highlands, where they used to be a majority. Take Dak Lak province as an example; in 1944 96% of the population was local ethnic people, in 1975 the figure has fallen to 59%, and by 1994 the local ethnic people only made up 25% of the total population.<sup>21</sup> Kinh people accounted for 5% of the total population in the Central Highlands in 1945, 50% in 1975, and more than 70% at present.<sup>22</sup>

The history of the Central Highlands is part of an explanation of the present governmental policy towards the minorities in the area and it should be kept in mind during the following analysis. The next chapter will be a presentation of the theoretical framework for the analysis.



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<sup>20</sup> Idem, p.26.

<sup>21</sup> In absolute figures, the population in the Central Highlands have risen from 1,5 million in 1976 to more than 3 million in 1995 due to both illegal migration and a deliberate state policy of moving people to the so-called New Economic Zones. A. Hardy, *Red Hills. Migrants and the State in the Highlands of Vietnam*, Copenhagen, NIAS Press, 2003, p.312.

<sup>22</sup> Asian Development Bank, op.cit., note 9, p.8.

## CHAPTER 3: A CROSS-CULTURAL APPROACH TO HUMAN RIGHTS

### 3.1. Theoretical framework

Since the Universal Declaration of Human Rights (UNHR) was adopted in 1948 a wide range of human rights documents has been elaborated by the international community, including institutions for minority rights and rights for indigenous peoples. Vietnam has acceded to a wide range of international human rights documents compared to neighbouring countries in the region; The International Covenant on Economic, Social and Cultural Rights (ICESCR), The International Covenant on Civil and Political Rights (ICCPR), International Convention on the Elimination of all Forms of Racial Discrimination, The Convention on the Elimination of All Forms of Discrimination against Women, and Convention on the Rights of the Child as the most important.<sup>23</sup> However, formal ratification is one thing, another is real implementation of these human rights documents. In this part the theoretical framework for the conditions under which the international human rights norms become internalized in domestic practices will be outlined. Two approaches will be used and combined. Risse and Sikkink's "spiral model" will be the grounding model however supplied with Buhmann's cross-cultural approach and analytical tool.

### 3.2. International Pressure on Repressive States

Risse and Sikkink's theoretical approach is based on social constructivism.<sup>24</sup> The starting point is a socialization process according to which, international human rights norms become accepted by sovereign states and internalized in their domestic state policies, even though the states previously have denied any existence of human rights. The focal point is the process in which human rights become norms that influence the behaviour of governments as well as the legal and political structures in the states. According to this approach, the interests of the state – the government, the parliament – changes over time because of an interaction with other actors – human rights activists, international donors etc. This process ends in the so-called "power of principles" where human rights are used in political speeches and parliamentary discussions. This has an effect on the structure of the state because human rights that are built on the principles

<sup>23</sup> Human Rights Internet: <http://www.hri.ca/fortherecord1997/vol3/vietnam.htm> (entered 2004-04-06).

<sup>24</sup> T. Risse, S. C. Ropp and K. Sikkink, *The Power of Human Rights. International Norms and Domestic Change*, Cambridge, Cambridge University Press, 1999.

of non-discrimination, equality and universality, require a political and legal system founded on the rule of law in order to be truly implemented. Many developing countries do not have a system based on the rule of law but are rather ruled by decree (rule by law) or ruled by one man or a small power elite, and the end of the socialisation process makes domestic structural changes inevitable for these countries.<sup>25</sup> The five-phased "spiral-model" illustrates this process of domestic change towards a rule of law system. The dynamic factor in the process of change is sustainable networks among domestic and international actors who manage to put human rights norms into a domestic context. The function of these networks are three-fold: put norm-violating states on the international agenda, empower and legitimate the claims from the domestic opposition groups and challenge the norm-violating governments via pressure "from above" and "from below".

"Because a state's political identity emerges not in isolation but in relation to and in interaction with other groups of states and international non-state actors, the concept of socialization may be useful in understanding how the international society transmits norms to its members".<sup>26</sup>

Through the model it is illustrated how state actors use different mechanisms when they react to international human rights norms. Now follows a description of the five phases.

The starting point in the spiral-model is a repressive state, phase 1, with a very weak domestic opposition. It is often the case that an authoritative state forbids any opposition and chases and imprisons any attempts of political gathering which makes it more or less impossible for the opposition to function. As a result, real political pressure upon the state will only occur if the international actors – like Human Rights Watch or the UN - gather sufficient information about repression in the state and manages to put the norm-violating state on the international agenda. This put international focus on the state as a human rights abuser and automatically moves the situation to phase 2, which is the phase of denial. The repressive state has been highlighted on the international agenda as a pariah, and its reaction is to deny the accusations. Of importance here is that the international community continues to

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<sup>25</sup> T. Risse and K. Sikkink, op.sit., note 24, p.1-9.

<sup>26</sup> Idem, p.11.



involve itself in activities of a moral persuasion towards the state. The actors in the international society have to intensify the pressure in order to both strengthen and protect the domestic opposition. However, quite often the state tries to avoid the pressure by referring to the international principle of sovereignty and illegitimate intervention in internal affairs. This stage of denial is an important part of the socialization process because the fact that the state feels compelled to deny the charges demonstrates that a process of international socialization is under way: "If socialization were not yet under way, the state would feel no need to deny the accusations that are made".<sup>27</sup> Phase 2 can be quite long and full of steps backward but continued international pressures normally lead it to phase 3 in which state behaviour changes from denial to tactical concessions. The norm-violating state seeks cosmetic changes to pacify international criticism such as releasing some minor prisoners or changing some laws which could look like improvements. This in itself gives more space to the repressed domestic opposition, and "people start losing their fears".<sup>28</sup> This leads to a domestic climate where the government is no longer in total control of the situation, and the domestic opposition becomes empowered and able to put pressure on the state "from below" also. In the end the state becomes entrapped in its own tactics, because by starting to "talk the human rights talk" the state becomes involved with the international human rights norm setting society. This leads to phase 4 the so-called "prescriptive status", in which the state involved regularly makes use of human rights norms in order to describe and comment on its own behaviour and that of other actors. In this phase, the state starts to ratify international human rights documents, institutionalise the norms in national legislation and engage in a dialogue with their critics. The success can be shown in the fact that the communication between the national governments and their domestic and international critics is done on the basis of dialogue, argumentation and justification of all arguments. At the same time, the institutionalization of human rights norms into domestic law and ensuing domestic practices begins. New institutions to protect human rights are created, public officials including police forces are trained, and procedures for individual complaints are instituted. This leads directly to phase 5 in which a rule-consistent behaviour has occurred, and in which the international human rights norms are fully internalized.<sup>29</sup>

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<sup>27</sup> T. Risse and K. Sikkink, *op.cit.*, note 24, p.23.

<sup>28</sup> *Idem*, p.26.

<sup>29</sup> *Idem*, p.22-34.

This process of socialization of international human rights norms will be used to identify Vietnam's position in the five phases of the "spiral model". By knowing the country's position it becomes possible to understand the behaviour and attitude towards the concept of human rights. Knowing the motives behind the political actors enables the international community to understand the impact, which international donors make in Vietnam and the long-term sustainability of their projects. However, the model has one important shortcoming that has to be addressed.

### 3.2.1. Critique of the Approach

One weakness of the "spiral model" is that it only looks at human rights as norms to be imposed from above. It is assumed that a more or less fixed package of human rights exists, which are ready to be implemented all over the world. Risse et al. argues that internal different economic, social, political, cultural, and normative structures in the repressive states mostly account for the timing of changes rather than the substance of the human rights regime. According to the researchers, empirically analyses from Africa, South-America and Asia, illustrates that an ongoing international pressure towards repressive states imposes international human rights. These norms start to work effectively across a strikingly diverse range of regions, countries, socio-economic systems, cultures, and types of political regimes.<sup>30</sup> The argument goes that different internal structures in the countries determine the speed of the implementation process as well as the amount of claw-backs during the process.

A critique against this is that the "spiral-model" does not distinguish between human rights at an abstract level, and human rights at a more concrete implementation level. Vietnam has accepted human rights at an abstract level by ratifying international human rights documents in the UN regime, but these documents do not concretize the rights. An example is that values in Confucianism tend to rank family and societal networks higher than individual rights, which are given primary value in most Western countries.<sup>31</sup> This does not imply that individual rights cannot be respected in communities living in accordance with Confucianism – it is not a protection of relative

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<sup>30</sup> T. Risse and K. Sikkink, op.cit., note 24, p.238-239.

<sup>31</sup> World Bank & Partnership to Support the Poorest Communes, *Community Driven Development in Vietnam. A review and discussion platform*, Hanoi, 2003, p.24.

Asian rights. It only implies that human rights in different countries are implemented differently. The individual criminality rate in Vietnam is an example. In the Vietnamese society, norms from Confucianism have developed widespread informal networks in form of a close social net of family relations. This implies that when the individual is committing criminal acts, he alone is not responsible for the acts - his whole family is made responsible. The existence of these family networks are said to lower the criminality rate in Vietnam considerably and prevent a large number of criminal acts. And it is a fact that the criminality rate in Vietnam is remarkably lower than in Western countries, where the individual is acting alone and not held responsible for criminal acts by his family.<sup>32</sup> Therefore, it is unrealistic to assume that a set of human rights standards can be imposed on Vietnam and function exactly as in a Western context. National structures not only influence the speed of the five phases. National structures also result in the interpretation of human rights different in different cultures.

### 3.3. The Cross-cultural Approach

Therefore, the "spiral model" will be supplemented with a theoretical framework that makes it possible to analyse how the human rights norms become shaped by national contexts. This is called the cross-cultural approach, here represented by Karin Buhmann's approach.<sup>33</sup> According to this, it is necessary also to analyse in depth, how national law interprets international human rights if one wants increased sustainability of human rights implementation. Increased knowledge of domestic law is seen as a foundation for a continued development of international human rights law.<sup>34</sup> This is an extension of a form of *weak cultural relativism* in which human rights are considered to be largely universal, but subject to different implementations in different settings.<sup>35</sup> The Vienna Declaration from 1993 in which 180 states confirmed the indivisibility and universality of *all* human rights - civil, political, social, economic and cultural - made it clear that it is not a discussion about human rights or not, because they are a fact. Rather, it underlined the importance of different regional interpretations of these

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<sup>32</sup> T. Høyer, *Fra kommandostyre til retssamfund*, in T. Høyer (Eds.), *Vietnam. Fra kommandostyre mod retssamfund*, Copenhagen, Mellemløkeligt Samvirke, 2003, p.116.

<sup>33</sup> K. Buhmann, *Implementing human rights through administrative law reforms. The potential in China and Vietnam*, Copenhagen, Djøf Publishing, 2001.

<sup>34</sup> Idem, p.25.

<sup>35</sup> *Weak cultural relativism* is defined in contradiction to *strong cultural relativism* that holds that human rights are principally determined by culture or other circumstances, see Idem, p.96.

universal principles.<sup>36</sup> It is a discussion about how far national interpretations of human rights are allowed to differ, given that the international human rights regime is to be protected. One theorist illustrates this with concentric circles.<sup>37</sup> The inner circle is the human rights as they are formulated in international documents. They are abstract and this is similar to a *thin account* of human rights seen as a pure morally minimalist one with abstract principles like "don't torture", or "don't abuse power". The middle circles are regional interpretations, and the outer circle is the most concrete national interpretations of human rights - the *thick account* where the moral principles are made concrete in accordance with the given society.<sup>38</sup> Freedom of expression is an example on this. The freedom right is limited differently in national settings, and these limitations have to serve a legitimate aim, be absolutely necessary and proportional to the protection of the legitimate aim.<sup>39</sup> Another way to illustrate it is with reference to the European Court of Human Rights that has developed the principle of *margin of appreciation* because even within Europe there is no uniform interpretation of human rights.

In summary, all human rights are still considered universal, but national states are allowed to use different interpretations of the rights that correspond to the national legal culture as long as these interpretations do not undermine the standard human rights at formulated in the international UN documents. The national legal culture is defined here as the law, political structures, and normative traditions in a given country, which have an effect on the way in which human rights are operative. Non-liberal societies, like the socialist republic of Vietnam, are not incompatible with the human rights regime according to this cross-cultural approach. What is important for a real implementation of human rights is that they are rooted in national reforms, and not reforms imposed from above, in order to consolidate the national ownership, as is a priority in the international donor society. The way human rights are implemented

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<sup>36</sup> Vienna Declaration and Programme of Action, Adopted by the World Conference on Human Rights in Vienna on 25 June 1993.

<sup>37</sup> L. Lindholt, *Questioning the Universality of Human Rights. The African Charter on Human and Peoples' Rights in Botswana, Malawi and Mozambique*, Hants, Ashgate, 1997, p.297.

<sup>38</sup> J. Chan, *Thick and thin Accounts of Human Rights: Lessons from the Asian Values Debate*, in M. Jacobsen and O. Bruun (Eds.), *Human Rights and Asian Values. Contesting National Identities and Cultural Representations in Asia*, Richmond, Curzon Press, 2000, p.61-63.

<sup>39</sup> Idem, p.67.

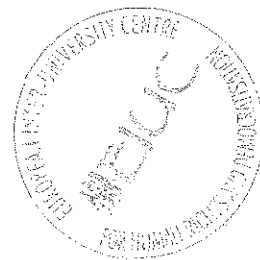
differs widely across communities however, they should always “protect, respect or fulfil” the core of the rights.<sup>40</sup>

The next chapter aims to describe Vietnam’s human rights record in order to position the country in the “spiral-model”.

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<sup>40</sup> K. Buhmann, op.sit., note 33, p.57-100.

## CHAPTER 4: HUMAN RIGHTS PROTECTION IN VIETNAM



### 4.1. Addressing Human Rights in Vietnam

This part seeks to answer the question whether Vietnam respects the indivisibility of all human rights and guarantees the rights for the ethnic minorities living in the Central Highlands by placing Vietnam in the “spiral-model”. First an insight of the general human rights protection in the country, followed by a specific analysis of the situation in the Central Highlands, and the central government’s response towards the ethnic demonstrations in the area.

### 4.2. Lack of Human Rights Protection

”All men are created equal...All the peoples on the earth are equal from birth, all the peoples have a right to live, to be happy and free”.<sup>41</sup>

Ho Chi Minh, 1945

This quote is from Ho Chi Minh’s Declaration of Independence in 1945, and its inspiration from the American Declaration of Independence is clear. However, it was later interpreted by the Vietnamese Communist Party as referring to Vietnam’s right to be free from colonial rule and therefore, it should not be seen as any recognition of freedom rights for the ethnic minorities living in the country.<sup>42</sup> In 1975 a united Socialist Republic of Vietnam gained independence, and in the following decade any discussion of human rights was forbidden by the Communist party, because as the party saw it, the people were now liberated from foreign oppression and had thus achieved all the basic rights they needed. Not until the ratification of the ICCPR and the ICESCR in 1983 together with the economic reforms (Doi Moi) starting in the late 1980s did human rights enter the political agenda again. However, it is still not possible to discuss and criticize in public. Apparently, the Vietnamese government aim at creating economic development, reform and change instead of any political liberalization, and the Doi Moi reforms was followed by further delimitations of freedom of the press and expression, imprisonment of political opponents, as well as persecution of Catholic and

<sup>41</sup> Ho Chi Minh, *Declaration of Independence of Vietnam on September 2*, Hanoi, 1945.

<sup>42</sup> Vo Van Ai, *Human Rights and Asian Values in Vietnam*, in M. Jacobsen and O. Bruun (Eds.), *Human Rights and Asian Values Contesting National Identities and Cultural Representations in Asia*, Richmond, Curzon Press, 2000, p.94.

Buddhist leaders.<sup>43</sup> The Vietnamese policy can best be described as a discourse of double standards, where human rights dialogue abroad is combined with a policy of repression at home.<sup>44</sup> An example from the 1980s illustrates this. From one day to another Vietnam classified all prisoners of conscience<sup>45</sup> as criminals, whereby they declared to the UN's Human Rights Commissioner in Geneva that Vietnam did not have political prisoners.<sup>46</sup> It can be argued that Vietnam's use of human rights is strategic in order to protect the country against all interference from abroad. Therefore, Vietnam act as a repressive state, using double standards and still being in the phase of denial towards any human rights critiques from the international community.

### 4.3. Formal Rights for the Ethnic Minorities

However, the pace of reforms in Vietnam has been fast during the last decade, and this has changed the formal use of human rights as well. The Constitution from 1992 has a whole chapter devoted to fundamental rights and duties of the citizen.<sup>47</sup> Civil, political, economic, cultural and social rights have the status of citizen's rights, where a citizen is defined as having Vietnamese nationality, and Vietnam's 54 ethnic groups all have full citizenship of the Vietnamese state. The civil and political rights are, among others, equality before the law (art. 52), freedom of expression, freedom of the press (art. 69), freedom of religion (art. 70) and the right to remain innocent until the Court's conviction has been announced (art. 72). There is also a right to participate in the administration of the state (art. 53) and the right to vote and stand for election to the National Assembly and the Peoples Council's (art. 54), however, it should be noticed that Vietnam is a one-party state ruled by the Communist Party of Vietnam (art. 4), and all candidates have to be approved by the Fatherlands Front, which is a state controlled mass organisation. Therefore, formal democratic participatory is very limited.<sup>48</sup> Economic, social and cultural rights are formulated in a quite detailed manner and obligate the state to fulfil them. There is a right and duty to education, primary school are free of charge and the state has to make sure that handicapped children also go to school (art. 59). There is an entitlement to health protection (art. 61), and an entitlement

<sup>43</sup> K. Christie and D. Roy, *The Politics of Human Rights in East Asia*, London, Pluto Press, 2001, p.110-116.

<sup>44</sup> Vo Van Ai, op.sit., note 42, p.97.

<sup>45</sup> A prisoner of conscience is imprisoned because of sex, religion, ethnicity, or political affiliations.

<sup>46</sup> Vo Van Ai, op.sit., note 42, p.96.

<sup>47</sup> Constitution of the Socialist Republic of Vietnam, 1992.

<sup>48</sup> [http://www.cpr.org.vn/vietnam\\_en/constitution/1992](http://www.cpr.org.vn/vietnam_en/constitution/1992) (entered 2003-07-29), chapter five, article 49-82.

<sup>48</sup> R. Hernø, CARE in Vietnam, Rural Development Advisor, Hanoi, interview, 09-06-04.

to the inviolability of the citizen's domicile (art. 73). Yet, there is also problem with wide clawback clauses in the Constitution which seems to let the security of the state undermines the rights of the citizens as in the example of the right to freedom of expression and the right to assemble and hold demonstrations, which is restricted in accordance with the law, although it is to limited how the law must interfere with the rights.<sup>49</sup> In addition, reports from Human Rights Watch and Amnesty International underlines a big gab between Vietnam's formal acceptance of international human rights instruments and the country's continued breach of the same rights.<sup>50</sup> It is not possible to argue for democratic reforms and human rights in public, because the rulers interpret this as an attempt to undermine the whole state. Critics are convicted for spying after very short trials. "There is no development in the field at all", is the judgement from a Danish lawyer working with legal reform in Vietnam.<sup>51</sup> It remains to be seen if there is any move towards a prescriptive status (phase 4), however, there do not seem to be any signs of loosening up towards political critical voices. The Constitution also provided rights specifically for ethnic minorities:

"The Socialist Republic of Viet Nam is the unified state of all nationalities living together in Viet Nam. The state carries out a policy of equality, solidarity, and mutual assistance among all nationalities and prohibits all acts of discrimination and division. Nationalities have the rights to use their own language and system of writing, to preserve their national identity, and to express their good customs, habits, traditions, and culture. The State carries out a policy of comprehensive development, and step by step will raise the material and spiritual living conditions of the ethnic minorities."<sup>52</sup>

This article five from the 1992 Constitution is quite comprehensive and contains a reference to general human rights according to non-discrimination and solidarity for

<sup>49</sup> N. F. Ebbesen, F. Kerrigan and L. A. Pedersen, *Civilsamfund og menneskerettigheder*, in T. Høyer (Eds.), *Vietnam. Fra Kommandostyre mod retssamfund*, Copenhagen, Mellemfolkeligt Samvirke, 2003, p.158-160.

<sup>50</sup> Human Rights Watch [www.hrw.org](http://www.hrw.org) (entered 2004-04-12) Amnesty International [www.amnesty.dk](http://www.amnesty.dk) (entered 2004-04-12).

<sup>51</sup> J. Lindegaard and A. Larsen, *Vietnams reformer gælder ikke menneskerettigheder*, in "Amnesty", vol.4, 2003; <http://www.amnesty.dk/bibliotek/amnesty/2003/nr4/Default.asp?artikelID=196> (entered 2004-04-20).

<sup>52</sup> Constitution of the Socialist Republic of Vietnam, op.cit., note 47, article 5.



all<sup>53</sup>, as well as specific rights for the minority groups to use and preserve own cultural characterizations fully in accordance with the requirements in the ICCPR and the Minority Declaration.<sup>54</sup> All ethnic groups are in a position of equality. One difference from the international documents for minority protection is that they refer to "persons belonging to..." whereas this Constitution set the Nationalities as right bearers which makes the rights collective given to the whole groups. The state practices a policy of formal ethnic equality as this article 5 from the Constitution illustrates. In 2001 an ethnic Tay, Nong Duc Manh, was elected as leader for the Communist Party, and 17% of the members in the National Assembly belong to a national minority, which is more than their share of the population.<sup>55</sup> In addition, Vietnam is channeling financial and social support to the poorest and most remote mountainous areas where a majority of the ethnic groups live through the 135-programme. This formal recognition and concrete policies towards the minority groups makes Vietnam unique compared with its neighbouring countries.<sup>56</sup> However, one thing is formal recognition, another is implementation and actual use and protection of these rights as will be shown in connection to the ethnic demonstration the Central Highlands.

#### **4.4 Ethnic Demonstrations in the Central Highlands**

The ethnic demonstrations in the Central Highlands in February 2001 and April 2004 occurred in a simultaneous way and will therefore be analysed together. In both cases the majority of participants seemed to belong to the Jarai and Ede minorities, the demonstrations took place in the same areas and they appear to have the same objectives.

During the demonstrations in February 2001 thousands of people belonging to the biggest ethnic minorities in the Central Highlands marched into the province capitals, Pleiku and Buon Ma Thuot. The marches ended in fights with the police forces. The Vietnamese authorities have interpreted the gatherings as expressions of a separatist attempt from the ethnic groups to create an autonomous homeland. This is seen as a direct security threat towards the Vietnamese state, and in March 2001, security forces responded to the demonstrations by coming into the villages by force and beginning to

<sup>53</sup> UDHR art.1 and art.2, ICESR art.2.2., ICCPR art.26.

<sup>54</sup> ICCPR art.27, Minority Declaration art.2.1.

<sup>55</sup> T. Høyer, op.sit., note 32, p.109.

<sup>56</sup> Independent WriteNet Researcher, op.sit., note 12.

arrest people whom they thought were leaders of the protests. The arrested were sent for very fast trials, where no foreign observers were allowed, and they were sentenced prison terms ranging from six to twelve years. Some ethnic people managed to escape to Cambodia, and their stories "paint a bleak picture of arrests, beatings, appropriation or destruction of goods, torture, and even of disappearances".<sup>57</sup> Nevertheless, the Vietnamese authorities to a certain degree have a basis for their suspicion, because a Vietnamese diaspora in the US, The Montagnard Foundation, claims that they are "the brains" behind the demonstrations as their leader, Kok Ksor who left Vietnam in 1974, put it. The Montagnard Foundation claims that they, via telephone communications organised the demonstrations, and that the aim was to create an autonomous Dega state in the Central Highlands. Kok Ksor expressed this in official press statements, and thereby linked the demonstrations to a political cause.<sup>58</sup> It is not possible to either confirm or deny this linkage. However, most researchers and development workers I interviewed put a question mark over the possibility of this linkage to the Vietnamese diaspora in the US. They pointed to the fact that the ethnic people in the Central Highlands are extremely poor and any sign of political organisation in the area seems to be lacking. The last "freedom fighters" from FULRO surrendered in 1994, and the ethnic minorities appear to have more pressing poverty problems to fight against. They did not consider it likely that organisers of separatism could have moved around in the Central Highlands and mobilised the villagers without the Vietnamese security agencies noticing anything and trying to intervene.<sup>59</sup> Also because gatherings of more than two or three men possibly would have drawn attention of the police and any attempts to make political organisations in the area would be interrupted immediately.<sup>60</sup> Therefore, it is considered more likely that the demonstrations were locally organised and that separatism was not the aim. It is estimated that the causes behind the demonstrations are protests against land evictions by authorities as well as against harassment of evangelical priests.

Similar demonstrations took place in the same area during Easter 2004. Immediately after, the Vietnamese authorities closed the area off for foreigners and intensified the

<sup>57</sup> Independent WriteNet Researcher, op.sit., note 12, p.23-24.

<sup>58</sup> See Montagnard Foundation, <http://www.montagnard-foundation.org>, (entered 2004-06-28), and, Montagnards, <http://www.montagnards.org/Crisis/NewsReports-Archive.html> (entered 2004-06-28).

<sup>59</sup> Independent WriteNet Researcher, op.sit., note 12, p.21

<sup>60</sup> J. Hannah, University of Washington, Ph.D., phoneinterview, Ho Chi Minh City, 11-06-04.

patrolling in the area. However, it is important to notice that the Central Highlands was a restricted area for every one until 1994, which makes limited entrance quite normal in the area.<sup>61</sup> These travel restrictions makes it complicated to find out exactly what happened during and after the demonstrations. One project manager for Danida working in Buon Ma Thuot was (unfortunately) out of town the weekend concerned, and when he returned Sunday evening, everything was back to normal.<sup>62</sup> This more or less indicates that the reports from The Montagnard Foundation talking about hundreds of dead bodies thrown in the river<sup>63</sup>, and the Transnational Radical Party Press talking about an Easter massacre were exaggerated.<sup>64</sup> In continuation of this, The Danish Embassy in Hanoi estimates that reports about the matter from Human Rights Watch overstated the violence attributed to the security forces.

"This time they are exaggerating. Some of the facts in the reports must have been made-up, because people in the area simply didn't see the things happen. But the foreign ministry [the Vietnamese] are as big liars as well (my translation)".<sup>65</sup>

What the embassy is referring to is the way the foreign ministry's Press Information Department is responding to the accusations with very clear denials in their press releases: "The so-called 'persecution of Montagnard protestants' is absolutely non-existent" and "we vehemently reject all ill-willed distortive rhetoric's on the so-called 'ethnic and religious persecution' in Vietnam".<sup>66</sup> On the other hand, it is seems quite clear that the demonstrators were met with force by the Vietnamese police, and the truth is to be found somewhere between the two sources. Officially, the Vietnamese

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<sup>61</sup> This restricted entrance is only for foreigners who are not working in the provinces. For instance, Danida workers in Dak Lak and Lam Dong provinces can come and go in the villages involved in the Danish projects as they need. However, after the Easter event, they it is forbidden for them to spent the night in the villages, V. Hemmel, Dalat Sanitation Sub-Component, Dalat, interview 06-06-04.

<sup>62</sup> J. Corning, Buon Ma Thuot Sanitation Sub-Component, Carl Bro als, Project Manager, Dalat, interview, 06-06-04.

<sup>63</sup> Montagnard Foundation <http://www.montagnard-foundation.org/news-04-0514.htm> (entered 2004-06-28),

<sup>64</sup> Transnational Radical Party, [http://coranet.radicalparty.org/pressreleases/press\\_release.php?func=detail&par=6896](http://coranet.radicalparty.org/pressreleases/press_release.php?func=detail&par=6896) (entered 2004-04-15).

<sup>65</sup> A. Baltzer Jørgensen, Royal Danish Embassy, Development Cooperation Counsellor, Hanoi, interview, 25-05-04.

<sup>66</sup> MOFA, <http://www.mofa.gov.vn:8080/Web%20server/Press.nsf/3d74812854f020948025688> (entered 2004-04-15), and, Voice of America <http://www.voanews.com/article.cfm?objectID=125C8F57-966C-4430>, (entered 2004-06-08).

government confirms the death of two persons, whereas Hanoi-based diplomats confirms violence and at least several deaths.

Accordingly, the Vietnamese government is acting in a more paranoid and brutal way than necessary towards the participants in the demonstrations in 2001 and 2004. When The Montagnard Foundation in the US is making claims about an autonomous Montagnard homeland on behalf of the ethnic population in the Central Highland, it might be doing more harm than good to the people living there<sup>67</sup>, because it makes the Vietnamese police forces extremely suspicious against all gatherings in the Central Highlands. They end up handling the demonstrators as causing a security problem against the unity of the Vietnamese state, and thereby making it necessary to punish them. However, there is every indication that the demonstrations were no more than ethnic farmers trying to highlight the fact, that they are losing their ancestral land and denied the right to freedom of religion.

“In order to stabilize and improve the situation for the Central Highlanders it should be borne in mind that a confrontational approach is not likely to work. A de-politicization of the conflict would allow the various partners to focus on the issues that really matter for the indigenous population: land and religion”.<sup>68</sup>

The argument is here that the Vietnamese state has to change focus from issuing the demonstrations as a security problem, and instead look at them as the developmental problems they actually are. It does not seem like there is any widespread autonomous claims from the ethnic minorities in the Central Highland. However, this does not eliminate the possibility of the ethnic groups having a common feeling of togetherness and identity in contrast to the Kinh. The degree of self-identification among the ethnic minorities will now be laid out together with the differences between being recognised as an ethnic minority rather than indigenous people.

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<sup>67</sup> There might be very political motives behind the act from the diaspora in the US, since many South-Vietnamese people left the country after 1975 because of the cooperation with the South-Vietnamese (and US supported) government.

<sup>68</sup> Independent WriteNet Researcher, op.cit., note 12, p.27.

#### 4.4.1. Minorities or Indigenous Peoples

The definition of an ethnic group as a minority or an indigenous people is an important issue as it has direct political implications on the recognition or lack of recognition of certain rights. The main difference is that minority rights, as specified in the ICCPR and the Minority Declaration, are individual rights, whereas rights for indigenous peoples are given collectively, according to ILO Convention No. 169.<sup>69</sup> According to rights, as an ethnic minority a group is entitled to effective political participation in the society and the creation of own associations<sup>70</sup>, whereas indigenous peoples should be allocated autonomy in order to make their own decisions in accordance with their own autonomous administrative and/or political systems.<sup>71</sup> This is an obstacle against recognition as indigenous peoples:

“Whereas the Minority Declaration and other instruments concerning persons belonging to minorities aim at ensuring a space for pluralism in togetherness, the instruments concerning indigenous peoples are intended to allow for a high degree of autonomous development”.<sup>72</sup>

Bearing in mind Vietnam's strong focus on an entity state and central political nationalism in mind makes it possible to understand why the country has classified the ethnic groups as minorities and not as indigenous<sup>73</sup>, however, it is not up to the state to decide upon the existence of an indigenous group or not, rather this is decided according to objective and subjective criteria's.<sup>74</sup> The National Program of Ethnic Classification which distinguished the 54 ethnic groups in 1979 used the following definition: “An ethnic group (dan toc) as a stable or relatively stable group of people

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<sup>69</sup> Danida, *Strategy for Danish Support to Indigenous Peoples*, Copenhagen, Foreign Ministry, December 2001, p.5.

<sup>70</sup> UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, article 2(2) and 2(3) and 2(4), and OSCE, *The Lund Recommendations on the Effective Participation of National Minorities in Public Life & Explanatory Note*, <http://www.osce.org/hcnm/documents/recommendations/lund/index.php> (entered 2004-03-11).

<sup>71</sup> ILO Convention No. 169, art.7 and art.8, and draft UN Declaration on the Rights of Indigenous Peoples, article 31.

<sup>72</sup> A. Eide, *Working paper on the relationship and distinction between the rights of persons belonging to minorities and those of indigenous peoples*, UN Doc. No. E/CN.4/Sub.2/2000/10, 2000, paragraph 8.

<sup>73</sup> K. Christie and D. Roy, op.cit., note 43, p.104.

<sup>74</sup> “The existence of a minority is a question of fact and not of definition...I would dare to say that I know a minority when I see one”. This is the working definition from Max van der Stoep, former High Commissioner on National Minorities in the OSCE see <http://www.osce.org/hcnm/mandate> (entered 2004-05-09), and the same definition should be possible to draw according to indigenous peoples.

formed over a historical period with common territorial ties, economic activities, and cultural characteristics".<sup>75</sup> The international community has not agreed upon any legal definition of the two concepts, but the 'Cobo definition'<sup>76</sup> has been regarded as the most acceptable to indigenous peoples, and the 'Capotorti definition' for minority groups.<sup>77</sup> Common for minorities and indigenous peoples is the objective characteristics that distinguish them ethnically, linguistically and/or religiously, as well as a subjective choice of self-identification as a group.

The ethnic groups in the Central Highlands hold the objective characteristics that differentiate them from the Kinh. Their mother tongue is ethnic, the traditional belief system of animism are still widespread together with Catholicism<sup>78</sup>, and they continue to practice the traditional upland cultivation, slash-and-burn technique, that requires large land areas, low population density and a collective form of land ownership. Also life in the villages is based on special long-houses and ownership of land is regulated by a system of customary laws and traditional rules.<sup>79</sup> These objective elements are characteristic for both ethnic minorities and indigenous peoples. The elements that distinguish between minority or indigenous status are identified by Erica Irene Daes as three core elements for indigenous peoples which are (1) aboriginality; (2) territoriality; and (3) the desire to remain collectively distinct.<sup>80</sup> The ethnic groups have lived in the area of the Central Highlands since pre-colonial time, even though over the years they have been pressed towards the more remote areas by Kinh migrants. This massive Kinh migration would complicate a potential territorial autonomy for the indigenous population, but it does not eliminate their status as indigenous to the area and a special relationship with their territory. It is more unclear if the groups fulfil the third criteria of desiring a collective identity distinct from the Kinh. They practice a separateness in

<sup>75</sup> Asian Development Bank, op.sit., note 9, p.5.

<sup>76</sup> "Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the society now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continues existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems (my underlining)", UN Doc.No.E/CN.4/Sub.2/1986/Add.4 quoted in Danida, op.sit, note 69, p.6.

<sup>77</sup> For a definition of minorities, see F. Capotorti, *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities*, UN Doc.E/CN.4/Sub.2/384/Rev.1, 1979, p.4-12.

<sup>78</sup> The majority of Kinh people are Buddhists, even though Catholicism also can be found here.

<sup>79</sup> Dan Nghiem Van and Luu Hung, *Ethnic minorities in Vietnam*, Hanoi, Gioi Publishers, 2000, and, O. Salemik, op.sit., note 10, and, Asian Development Bank, op.sit., note 9, p.18.

<sup>80</sup> E. Daes, *Working Paper on the relationship and distinction between the rights of persons belonging to minorities and those of indigenous peoples*, UN Doc. E/CN.4/Sub.2/2000/10, 2000, paragraph 49.

daily practices given widespread traditional customary law and rites in many ethnic villages especially in the most remote areas, and they live in accordance with their own judicial laws which handle many marriages, disputes, decisions in the villages etc. However, there does not seem to be an actual political organisation in the villages<sup>81</sup> As a matter of fact, the self-organisation among the indigenous peoples in Vietnam is classified as "completely nonexistent."<sup>82</sup> However, this status of non-organisation could very well be caused by continued harassment and persecution from the Vietnamese security forces in the Central Highlands, and therefore, the ethnic minorities might choose to perpetuate a collective social and political organisation and self-identity as indigenous peoples, if they were given the capabilities.

#### 4.5 Vietnam: A Repressive State

It can be discussed whether Vietnam has made any moves forward according to the "spiral-model" when it comes to real human rights protection. A major step forward according to the formal guarantee of rights is the Constitution of 1992, but it is still not possible to put discussions about human rights and democracy on the national political agenda without risking being imprisoned.<sup>83</sup> Another step forward is the fact that Vietnam has been put on the international human rights agenda, and even though all demands of human rights are met by a hysterical counterclaim from the foreign ministry, this denial (phase 2) is a step toward "talking the human rights talk". However, it is also evident that a real dialogue about human rights is not possible at the moment. Domestic political opposition is still more or less non-existent, only consisting of some former party members and Buddhist monks, who criticize the Communist Party and the widespread corruption. The press is subject to an enforced self-censorship, which makes it an art form in itself to read Vietnamese newspapers, because one has to learn to read between the lines in order to understand the writing.<sup>84</sup> An area with particular repression is among the ethnic minorities in the Central Highlands where the central control does not seem to be loosening at all. On the contrary, the state's violent reaction toward the ethnic demonstrations in 2001 and 2004

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<sup>81</sup> Le Thu Nhung, Ede, Hanoi, interview, 12-06-04.

<sup>82</sup> I. Sjørlev, *Indigenous Peoples in Asia*, in Danida, *Support to Indigenous Peoples. Seminar on Experiences and Perspectives*, Copenhagen, Foreign Ministry, p.25.

<sup>83</sup> Human Rights Watch, <http://www.hrw.org> (entered 2004-04-12).

<sup>84</sup> E-mail comment at Vietnam Studies Group, 2004, <http://www.lib.washington.edu/southeastasia/vsg/Elist> (entered 2004-06-20).

indicates, that the states are not allowing any use of the right to freedom of expression and demonstration as are guaranteed in the Constitution.

As the situation is today, it is counterproductive to criticize Vietnam's human rights record and present Vietnam as a pariah to the international community. The government are not responsive to this critique at all, and instead too massive a critique brings the few progresses at the human rights field in danger, indeed as one developmental aid worker puts it:

"In my opinion, the critic is raised without having an eye for the national system. If the human rights organisations want a dialogue, then they have to make an effort towards understanding the conditions and use this in their work. What they are doing now does not open any doors (my translation)".<sup>85</sup>

He underlines that this does not mean a complete stop for all discussions, but it is recommended to start working together with Vietnam, as a national partner, and start discussions on premises that all parts can accept. He is working with providing legal reforms in Vietnam and cooperating with Supreme People's Court, Office of the National Assembly and Supreme People's Procuracy, which are important institutions placed in the political centre of power in Hanoi. The aim is to implement a system based on the rule of law and provide information about rights to the public. The implementation of the reforms is going in the right direction with full support from the government. Therefore, it is argued that by implementing legal reforms and promoting a greater degree of transparency and accountability, these reforms will have a positive effect on the implementation of human rights in Vietnam.

In accordance with this cross-cultural approach, the international community should make shift in focus from human rights conditionalities and instead support the legal reforms and socio-economic development strategies that are initiated by the Vietnamese government. For example, the Vietnamese government has also initiated developmental programs for the ethnic minorities in the area via the national poverty strategy, the CPRGS, and a programme for building infrastructure in the poorest

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<sup>85</sup> J. Lindegaard and A. Larsen, op.sit., note 51.



communes, the 135 Programme.<sup>86</sup> By basing the dialogue on reforms initiated and supported by the government, the dialogue would be more constructive. As will be argued in the next chapter, the focus the CPRGS put on development of ethnic minorities and enabling them to participate in local decision making is a kind of indirect promotion of civil and political rights.

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<sup>86</sup> Independent WriteNet Researcher, op.sit., note 12, p.21-24.

## CHAPTER 5: A RIGHT TO HUMAN DEVELOPMENT

### 5.1. Understanding the National Partner

This chapter aims at illustrating that human rights norms are not foreign to Vietnamese culture, even though there appear to be more steps back than forward according to human rights in the “spiral-model”. The use of the cross-cultural approach makes it possible to understand the national partner and learn more about human rights ideas in Vietnamese culture, even if they are not worded in human rights terminology and have not been presented as concerned with human rights.<sup>87</sup> The cross-cultural model will be used in order to outline the connections between human rights ideals, objectives, standards and the legal setting in Vietnam. Focus will be on the Vietnamese strategies for generating development and poverty reduction. It will be analysed to which extent a right to human development can be found in Vietnam. This implies an analysis of the CPRGS and the Grassroots Democracy Decree.

In this thesis human development is defined in accordance with Amartya Sen’s concept of sustainable poverty reduction and the focus is set on much more than growth in GDP and household incomes. It is broadly defined to also as both economic growth and providing the poor with capabilities to participate in society.

#### 5.1. The National Basis for Human Rights

This thesis is based in a rejection of the argument about certain Asian Values that are incompatible with human rights.<sup>88</sup> Rather, human rights are not perceived as Western in origin, as little as individual freedoms should be unfamiliar in an Asian context. Human rights have not emerged exclusively in or from any single cultural tradition, and have deep historical roots in non-Western societies. This is also seen in the writings and political movements from Confucianism, the Indian emperor Ashoka, Mahatma Gandhi and Dr. Sun Yat-sen.<sup>89</sup> The common ground between human rights and norms in the Vietnamese society is Confucianism and Buddhism.

<sup>87</sup> K. Buhmann, op.sit., note 33, p.19.

<sup>88</sup> For the Asian Values argument see K. Mahbubani, *The Pacific Impulse*, in “Foreign Affairs”, vol.74, no.4, 1995, p.105-120.

<sup>89</sup> A. Sen, *Human Rights and Economic Achievements*, in J.R.Bauer and D. A. Bell (Eds.), *The East Asian Challenge for Human Rights*, 1999, Cambridge, Cambridge University Press, p.96-99. For arguments about correlativity between Asian Values and human rights see also J. Chan, op.sit., note 38.

Vietnam was a Chinese province from 111 B.C. to 939 A.C, and the Chinese influence from Confucianism as a normative source was massive. Confucianism implies a strong emphasis on harmony in society – the sovereign is set to protect this harmony, but the people are given a legitimate aim to resist any oppression.<sup>90</sup> The harmony and social order is to be guaranteed by moral standards of behaviour which all citizens as well as the rulers and the sovereign act in accordance with. On this basis, good governance will occur, and a meritocratic recruitment of bureaucrats and rulers are provided. Confucianism's compatibility with human rights is supported by the emphasis attached to meritocratic recruitment and promotion of civil servants, implying a concern with prevention of abuse of state power as well as a degree of egalitarianism. A special institution, the Censorship, worked independently from the government and was set up to control the emperor and the civil servants. The Censorship travelled to province and district levels and investigated complaints about civil servants and their administration. Even though not worded in human rights terminology, these have clear parallels to the key human rights ideals of non-discrimination and a right to freedom from abuse of power.<sup>91</sup> In addition to this rule of justice, Buddhism, which came to Vietnam from India in the first century, supplemented Confucianism with principles of liberty, social justice and tolerance. Buddhism is based on equality and non-discrimination in so far as "Each person is the Buddha to be", and individuals is to be set in freedom from society. It permeated the society from grass-roots upwards, and it is estimated that the "Vietnamese Buddhism developed from the very outset a tradition of activism and a commitment to social justice unique in South East Asia"<sup>92</sup>. Buddhist monks are playing a crucial role in Vietnamese society today via massive Buddhist demonstrations for freedom and liberty.<sup>93</sup>

### 5.2.1. National Centralism

However, the principle of Legalism from China also came to dominate in the Vietnamese society. According to Legalism, national laws are used as an instrument for the interests of the state and sovereign to control the country, and thereby used as means for the rulers to strengthen and ensure the central ruling of the country. Laws are therefore not seen as means for ensuring individual rights but rather as means to

<sup>90</sup> „The people are of paramount importance, second comes the State and last comes the Sovereign, who is least important of all“, Mencius quoted in Vo Van Ai, op.sit., note 42, p.102.

<sup>91</sup> Buhmann, op.sit., note 33, p.486-497.

<sup>92</sup> Vo Van Ai, op.sit., note 42, p.104.

<sup>93</sup> Idem, p.102-107.

maintain status quo in society.<sup>94</sup> In Vietnam today, the principle of legality in the procedures appears to have a relatively stronger position in the administration than the principle of equality which implies an instrumental use of law – rule by law – which differs from the objective rule of law.<sup>95</sup> It is also in extension of the Marxist-Leninist principle of democratic centralism that dominated in Vietnamese ruling today. It consists of “freedom of discussion and criticism, unity of action”, and this unity is guaranteed by the Party’s supervision of all political decisions.<sup>96</sup> During the last century, Vietnam’s legal culture have been influenced by French civil law and American common law, a communist-marxist ruling by decree, and traditional sources from Confucianism and Legalism, and this mix of sources have created a very complex legal system. Today the legal system lack transparency, clear accountabilities, and it is influenced by political motives and decrees from the Communist Party.<sup>97</sup> It is a fact that Vietnam is one of the more corrupt countries in the world ranking as number 105 on Transparency International’s Corruption Perceptions Index for 2003.<sup>98</sup> Political hiring and promotion are more widespread than a meritocratic bureaucracy. In addition, the Vietnamese history is a history of war in the fight for independence, and in time of war there is no space for democratic debates, rather a top-down commando ruling dominates all decision making. Hereby, Vietnam developed a certain dogmatic form for communism where political and national harmony is given more value than laws which could promote equality.<sup>99</sup>

In summary, Vietnam has developed into a top-down controlled society with widespread political corruption. However, values from Buddhism and Confucianism about justice in ruling, provide a link and responsiveness towards demands from the people, whom are guaranteed a right to revolt against an unjust ruler. This linkage is evident in Vietnam in so far that it is possible to protest against corruption, even though political critic against the Party is not an option.<sup>100</sup> This degree of responsiveness towards public claims are illustrated in the fact that demonstrations against widespread corruption in Thai Binh led to the formulation of the Grassroots Democracy Decree

<sup>94</sup> K. Buhmann, op.cit., note 33, p.269-276.

<sup>95</sup> Idem, p.473

<sup>96</sup> World Bank & Partnership to Support the Poorest Communes, op.cit., note 31, p.27.

<sup>97</sup> Idem, p.70.

<sup>98</sup> This index is defined as “a poll of polls, reflecting the perceptions of business people, academics and risk analysts, both resident and non-resident”, Transparency International,

[http://www.transparency.org/pressreleases\\_archive/2003/2003.10.07.cpi.en.html](http://www.transparency.org/pressreleases_archive/2003/2003.10.07.cpi.en.html) (entered 2004-07-01).

<sup>99</sup> Høyer, op.cit., note 32, p.104.

<sup>100</sup> This is a limitation with an impact, because quite often it is the Party member that are corrupt, R. Templer, *Shadows and Wind, A View of Modern Vietnam*, New York, Penguin Books, p.80-100.

(see part 5.3.3.1.), and the ethnic demonstrations in the Central Highlands – despite political oppression – also led to further initiatives concerning socio-economic development in the area. Therefore, Vietnam's priority of poverty reduction can be seen as a move that reflect demands from the population as well given the fact that Vietnam had a country wide famine as late as the end of the 1980s.<sup>101</sup> It is acknowledged that an unsatisfied population threatens the central authorities, and the rulers have to respond to strong demands and dissatisfaction from the population.

### 5.3. Interlinking Human Rights in Vietnam

This part will illustrate how a human right are interlinked in Vietnam though the national priority of poverty reduction strategies. K. Buhmann's cross-cultural model will be used to show how abstract human rights norms are given concrete substance in the national context, and her model is used as a tool for the Vietnamese situation according to a right based protection of the ethnic minorities. This model illustrates how abstract and *weak* (Chan definitions in part 3.3.) human rights norms are made concrete and *strong* by national interpretation and put into domestic policy papers (see model 1 p.33).

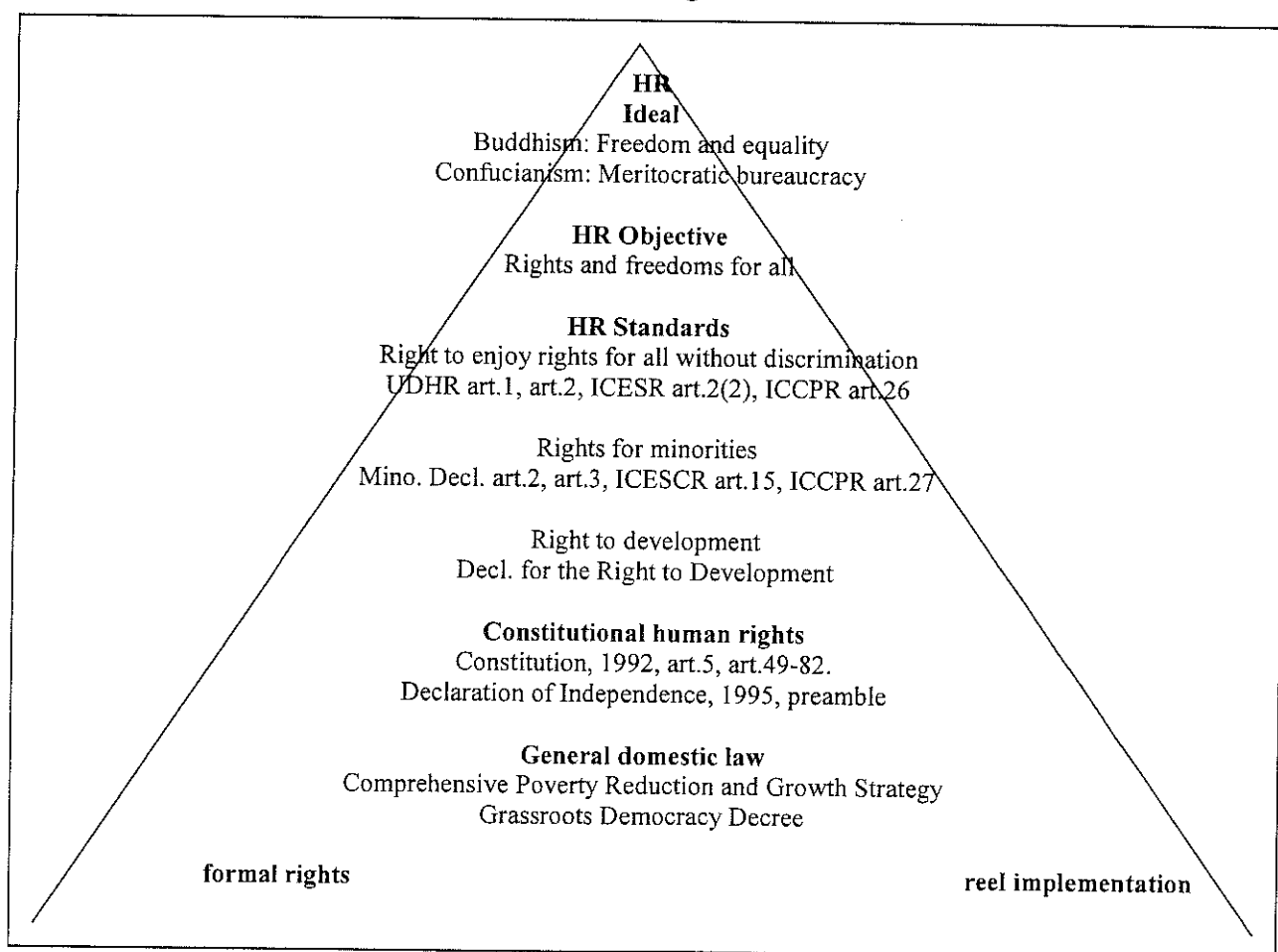
Model 1 illustrates the interlinking of human rights in Vietnam. Abstract human rights ideals originate in para-legal norms from Buddhism and Confucianism. They provide a potential basis for freedom and equality together with a meritocratic bureaucracy as principles for a human rights approach in Vietnam. These ideals can be linked to a human right objective of rights and freedoms for all. This is a fundamental requirement in order to secure justice in ruling and fairness for all. This is the two levels of unwritten norms that have been present in Vietnam for centuries. More recently, these norms have been written down and legalised in a wide range of UN human rights conventions and declarations that set up human right standards for the states. Of importance in connection to the protection of the ethnic minorities in the Central Highlands are three standards: the right to non-discrimination, minority protection and the right to development. These principles have to be seen in connection to specific priorities in national constitution and law. First, the right to enjoy rights for all without discrimination, as specified in the UDHR, the ICCPR and the ICESR, is a fundamental value for a rule of law and a guarantee of human rights and fundamental freedoms,

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<sup>101</sup> R. Templer, op.sit., note 100, p.47-62.

which is also protected through the Constitution. In addition, it is recognised that a real implementation of rights and freedoms for all often requires affirmative action targeted towards vulnerable groups in society. This leads to the second principle, specific rights for minorities, which in the UN system gets protection through the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (The Minority Declaration), and which in Vietnam are protected according to the article 5 in the Constitution as well as in Ho Chi Minh's Declaration of Independence from 1945. The third principle, the right to development, was formulated in the UN Declaration on the Rights to Development from 1986, but it is not formulated as a specific right in any Vietnamese law. However, it will be analysed in connection to the Comprehensive Poverty Reduction and Growth Strategy (CPRGS) and the Grassroots Decree, and it will be argued that a right to development is occurring in these documents.

**Model 1: Approaching Human Rights in Vietnam<sup>102</sup>**



<sup>102</sup> source: K. Buhmann, op.cit., note 33, p.550, 553.

The gap between formal rights and real implementation, as specified in model 1 as well, will be subject for analysis in the next chapter. The remaining part of this chapter will focus on an analysis of the formal rights provided in Vietnam.

### 5.3.1. The Right to Human Development

“Development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom”.<sup>103</sup>

Adopting the right to development as a human right implies that the process towards a full realisation of all human rights becomes a human right itself. The means and the chosen strategies for development matters, because the right concern a particular process of development.<sup>104</sup> Human right protection is not just the outcome but also part of the process. The right is formulated as a programmic right, where states have to provide the conditions for development and take steps towards, but they are not actually obliged to provide a full realization.<sup>105</sup> Rather, the right to development should involve a delimitation of a minimum core obligation, parallel to the General Comments in which The Committee on Economic, Social and Cultural Rights interpret the rights provided in the ICESR. It is suggested to focus on three basis rights, food, health and education, which are fundamental for a development process.<sup>106</sup> According to the Declaration for the Right to Development, this right realized through national development policies is a duty for the states to formulate (article 2(3), art.3, art.8) however in cooperation and with help from other states and international agencies

<sup>103</sup> Declaration on the Right to Development, Adopted by General Assembly resolution 41/128 of 4 December 1986, preamble.

<sup>104</sup> The right to development was promoted both by the Third World protagonists and First World critics as a collective right of states and of peoples for development, and article 1 recognises a collective right of peoples and the right to self-determination. However, this discussion is not relevant for this thesis' research question.

<sup>105</sup> A. Sengupta, *On the Theory and Practice of the Right to Development*, in "Human Rights Quarterly", vol.24, 2002, p.853.

<sup>106</sup> Idem, p.886.

(art.3, art.4). It implies a claim for a social order based on equity. The beneficiaries are the individuals in the given state (art.2).<sup>107</sup>

In this thesis development is defined as human development. Economic growth alone cannot fulfil the human right to development, when development is defined broadly as “a process of expanding the real freedoms that people enjoy”.<sup>108</sup> Development processes aims at realising human freedoms and giving individuals capabilities – that could be, obtaining a good health, getting an education, being free to speak, free to associate etc. – which will enable them to choose to live the life they prefer. Providing capabilities is therefore also providing freedom. Therefore, economic growth is seen as a mean to obtain capabilities and realize these freedoms, and not an end in itself. However, economic development is in its nature an increase in freedoms, and providing a person with capabilities will also enable the person to increase his/her income. Amartya Sen links poverty and hunger to fundamental freedoms and human rights. If phenomena's like hunger, malaria and epidemics are widespread, then it is limited what a person can actually chose to do with its life, and this limitation of real opportunities are parallel to a limited freedom. Therefore, an elimination of poverty and poverty related diseases empower the persons to participate and make choices about their own life, and any denial of civil and political rights will only be an obstacle to human development. Political freedom has an instrumental importance as well as a constructive role. Free speech and democratic choice is *an instrument* for being able to express ones values, and have influence on political decisions. Governments responsive to criticism have an incentive to listen to what people wants and rule by justice. In addition, it is through discussion and dissent of arguments that people get a proper understanding of what economic needs are, and they become able to make choices based on information and reflection. These processes are said to have a *constructive* role for obtaining values and making priorities. Political rights, including freedom of expression and discussion, are not only pivotal in inducing social responses to economic needs, they are also central to the conceptualization of economic needs themselves.<sup>109</sup> An example is that Kerala (a region with much higher levels of

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<sup>107</sup> A. Sengupta, op.sit., note 105, p.838-889.

<sup>108</sup> A. Sen, *Development as Freedom*, Oxford, Oxford University Press, 1999, P.3.

<sup>109</sup> Idem, p.146-159.



education, health care and land reforms than others) seems to have had a faster rate of reduction in income poverty than any other state in India.<sup>110</sup>

It is important to distinguish between the right to development as a human right and the creating of legally binding obligations relating to that right. The right to development is not legally binding, since it is formulated in a declaration with no monitoring mechanism, only an underlining from the Vienna Declaration and the Millennium Goals as morally binding document. Therefore, of even more importance for this analysis is the actual implementability of the right to development. Now the right will be connected to national strategies in Vietnam, namely the CPRGS and the Grassroots Democracy Decree.

### 5.3.2. The CPRGS in an International Perspective

The adoption of the CPRGS has to be seen in connection to the UN's Millennium Declaration adopted in 2000 by the General Assembly. This reinforces the international commitment to make the right to development a reality for everyone (§11), by providing more generous development assistance and debt relief (§15). This reflects a broad understanding of poverty reduction with its aim to ensure a development, not only in economic terms, but also based on freedom and equality.<sup>111</sup> Freedom includes the right to live free from hunger, fear oppression and injustice (§6), and the immediate aim is, among others, "to halve, by the year 2015, the proportion of the world's people whose income is less than one dollar a day and the proportion of people who suffer from hunger".<sup>112</sup> Common for all the development goals set up are their broad social aims at poverty reduction, all to be reached before the year 2015. While the Millennium Declaration only specifies the results to reach, the strategies to reach these results on a national level is left open for the national states to formulate in national poverty reductions strategies. However, the developing countries choice of strategies is not left totally open. The Comprehensive Development Framework (CDF), launched by the World Bank, has an important influence on national poverty reduction strategies and

<sup>110</sup> A. Sen, op.cit., note 108, p.35-53, 87-110.

<sup>111</sup> O.W.Andersen and A.Aarestrup, *Fattigdomsstrategier, 2015-mål og bilateral bistand*, in S. Possing (Eds.), *Ny strategi for bekæmpelse af fattigdom. Global tilpasning eller lokal udvikling?*, "Den Ny Verden", Copenhagen, Dansk Institut for Internationale Studier, vol.3, 2003, p.43-50.

<sup>112</sup> United Nations Millennium Declaration, General Assembly resolution 55/2 of 8 September 2000, <http://www.un.org/millennium/declaration/ares552e.htm> (entered 2004-04-27), paragraph 19.

international donors.<sup>113</sup> Central to the World Bank is to set up guidelines for poverty reduction strategies, and focus on the way aid is delivered, not just its content, which is seen as having an important influence on its effectiveness. It is important to notice that the CDF is a step away from the Structural Adjustment Programmes used by the World Bank in the 1980s with very little success in many African countries.<sup>114</sup> It develops the concept of aid as a *partnership* between recipient governments and donors. It advises a *national ownership* of the strategies, based on citizens participation in the process, which should lead to more *holistic and long-term* strategies. What really matters is the impact on people and their needs and therefore results should be evaluated through *measurable, on-the-ground* results.<sup>115</sup> This is intended to result in governments that are held more accountable for the citizens for the formulated policies which might result in system changes.<sup>116</sup> Vietnam's poverty reduction strategy, the CPRGS, is connected to the CDF framework. Vietnam wanted to obtain loan from the World Bank and the IMF in the late 1990s, and these institutions required institutional changes in accordance with the CDF in exchange for granting loans.<sup>117</sup> The CPRGS was finished and signed in May 2002 by the prime minister, Phan Van Khai, and it is the leading document for poverty reduction project in Vietnam, when projects are set up at national and local level. Critics argue that the reforms in Vietnam are more donor driven than national initiated which might undermine their long-term sustainability.<sup>118</sup> However, it is also stated that Vietnam is a very strong partner to negotiate with; "they know what they want"<sup>119</sup>, and they wanted entrance to the world market and loans from Bretton Woods Institutions.<sup>120</sup>

<sup>113</sup> World Bank, *Toward Country-led Development. A Multi-Partner Evaluation of the Comprehensive Development Framework*, Washington, World Bank, 2003, p.1-16.

<sup>114</sup> The SAPs neoliberal approach cut down state budgets and promoted a free market, however, the economic growth failed to materialize and Africa faced a general "crisis of governance", M. Kjør and K. Kinnerup, "Good Governance: How does it relate to Human Rights?", in G. Alfredsson (eds.), *Bridging Good Governance and Human Rights*, p.3.

<sup>115</sup> World Bank, op.sit., note 113, p.1-16.

<sup>116</sup> D. Booth, *Holder hypotesen? Om PRSP i Afrika*, in S. Possing (Eds.), *Den ny verden 3: Ny strategi for Bekæmpelse af Fattigdom*, "Den Ny Verden", Copenhagen, Dansk Institut for Internationale Studier, vol. 36, 2003, p.51-61.

<sup>117</sup> I. Nørlund, Tran Ngoc Ca and Nguyen Dinh Tuyen, *Dealing with the Donors. The Politics of Vietnam's Comprehensive Poverty Reduction and Growth Strategy*, Policy Papers 4/2003, University of Helsinki, 2003, p.22.

<sup>118</sup> Idem.

<sup>119</sup> M. Jacobsgaard and A. Johansen, Joint Project Support Office, Hanoi, interview, 09-06-04.

<sup>120</sup> This should be seen in contrast to many of the African countries who were forced into 'structural adjustments', because the agenda and speed were set by Vietnamese national forces, even if foreign advisors were involved on providing advice in a number of areas, I. Nørlund, Tran Ngoc Ca and Nguyen Dinh Tuyen, op.sit., note 117, p.76.

“Poverty reduction is the basis element to ensure social justice and sustainable growth; and in-return, high and sustainable growth could bring about physical energy to support and provide opportunities for the poor to get out of poverty holes (my underlining)”.<sup>121</sup>

This quote from the CPRGS illustrates Vietnam’s priorities of economic growth as a primary aim, whereas pro-poor growth is set up as secondary. The Vietnamese government also added the word “growth” in the title of the document in order to underline the national focus on increased economic development.<sup>122</sup> The document is defined as “an action plan” put forward in order to concretise national development goals and policies already formulated in the Ten-year Socio-economic Development Strategy for the period 2001-2010 and the Five-year Socio-economic Development Plan for 2001-2005, which was agreed upon in 1998 during the 9<sup>th</sup> Party Congress.<sup>123</sup> The CPRGS strengthens these nationally approved plans, which basically is concerned with economic issues and, to a lesser extent, social issues. Poverty reduction is rather considered part of the social situation, because continued economic growth requires social efforts.<sup>124</sup> The CPRGS have been integrated with parallel processes in other national strategy processes, and in that way, all national strategies in Vietnam is set to work together in a holistic framework, and macroeconomic policies, legal and administrative reforms are linked to targeted measures that support specific poverty groups.<sup>125</sup>

Nevertheless, economic growth is a precondition for generating freedom to development, and the CPRGS also contains inclusive development objectives such as resource allocation to the poorest communes, building up infrastructure (roads, schools, health clinics) for extreme disadvantaged groups and reduction of vulnerability by

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<sup>121</sup> Socialist Republic of Vietnam, op.sit., note 4, preface, p.ii.

<sup>122</sup> The Millennium Goals do not entail an aim of economic growth, and in the World Banks Articles of Agreements it is stated that the organisations primary aim is development via economic growth: “The Bank...shall not interfere in the political affairs of any member...only economic considerations shall be weighted impartially in order to achieve the purposes” [here: development via CDF], K. De Feyter, *The international financial institutions and human rights. Law and Practice*, in I. Gomez, *La protección internacional de los derechos humanos en los albores del siglo XXI*, Bilbao, Universidad de Deusto, 2003, p.3-5.

<sup>123</sup> I. Nørlund, Tran Ngoc Ca and Nguyen Dinh Tuyen, op.sit., note 117, p.98., and, Socialist Republic of Vietnam, op.sit., note 4, p.2.

<sup>124</sup> I. Nørlund, Tran Ngoc Ca and Nguyen Dinh Tuyen, op.sit., note 117, p.120.

<sup>125</sup> Socialist Republic of Vietnam, op.sit., note 4, p.3.

empowerment of the poor.<sup>126</sup> In addition, poverty reduction programs had already entered into force before the CPRGS, and their importance are strengthened through the targeting in the CPRGS. One example is the 135 Programme from 1996 (also named Hunger Eradication and Poverty Reduction Programme) on development of remote disadvantaged and extremely disadvantaged communes.<sup>127</sup> Another important and fundamental new thing in a Vietnamese context is the requirements from the CDFs principles about an open participatory policy process where non-governmental actors are invited to participate. The Government of Vietnam has actually allowed participation from both donors and NGOs at local and community level in the preparation of the document, and they are requested to participate in the implementation as well<sup>128</sup>, and it is the first time local and international NGOs are invited to participate in a policy making process. One shortcoming, however, is that the general knowledge of this invitation is very low. Local authorities and many key officials in the provinces do not know about the process. In spite of this, the CPRGS contains a new poverty terminology and a new focus on marginalized people, which is positive a step towards empowerment of the ethnic minorities.<sup>129</sup>

### 5.3.2.1. The CPRGS and Human Development

"Today, Vietnam is a 'darling' of the donor community, praised for its responsiveness to donor carrots and sticks for bringing Vietnam into the mainstream of the global development agenda...Which is not to say Vietnam's successes are less that spectacular".<sup>130</sup>

This remarkable success of Vietnam refers first of all to its massive poverty reduction. In 1993, 58% of the population lived in poverty, compared to 37% in 1998 and 29% in 2002. These statistics shows that no less than 1/3 of the population, or about 20 million, has been lifted out of poverty in less than a decade, which is considerably faster than other developmental countries.<sup>131</sup> Vietnam has managed to set up an operational

<sup>126</sup> Socialist Republic of Vietnam, op.sit., note 4, p.118-126.

<sup>127</sup> I. Nørhund, Tran Ngoc Ca and Nguyen Dinh Tuyen, op.sit., note 117, p.106.

<sup>128</sup> Socialist Republic of Vietnam, op.sit., note 4, p.117.

<sup>129</sup> I. Nørhund, Tran Ngoc Ca and Nguyen Dinh Tuyen, op.sit., note 117, p.128.

<sup>130</sup> Idem, p.22.

<sup>131</sup> Except for countries recovering from civil war or economic havoc, over the last decade only China and Ireland have seen faster growth of GDP pr. capita.

management system of poverty reduction activities from central to local levels that involve central institutions as well as mass organisations and local organisations. And the CPRGS specifies that poverty reduction is also about generating sustainable growth and allowing the poor to take their own initiative in improving their situation.<sup>132</sup> "The State will support the poor to enable them to learn how to escape from poverty".<sup>133</sup> The CPRGS allow civil society and community organisations at the local level to improve the participation of the poor in the development process, and enable them to take initiative and develop self-help efforts.<sup>134</sup>

However, the CPRGS is an all-embracing document with concrete objectives set too high, and around 85% of all international donors judge them to be unrealistic. The document does not set up a specific right to human development for the poor people. Therefore, international donors points to the fact that the challenges lie in the implementation of the CPRGS, which will show if the outcome will provide the ethnic minorities in the Central Highlands with more capabilities to make choices, or if the outcome will be a development that exclude the ethnic minorities. This potential gap between the real implementation and the formal policies will be in focus in next chapter.

### 5.3.3. The Grassroots Democracy Decree

The Grassroots Democracy Decree from 1998 is a document from the Vietnamese government that lay down guidelines for people to make use of their Constitutional right to participation. It specifies a strategy to reform the centralist top-down decision procedures into a more decentralised bottom-up system with participation from local people at commune level (see annex 2). People get the right to participate in the decisions concerning socio-economic activities in the localities, which is in accordance with the principle of "people know, people discuss, people do and people check".<sup>135</sup> This decree is unique in the way that it specifies strategies for increasing democratisation and rule of law according to Ho Chi Minh's slogan of people's participation at municipality level. Everybody gets a formal right to rise ones voice in a

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<sup>132</sup> Socialist Republic of Vietnam, op.sit., note 4, p.43.

<sup>133</sup> Idem, p.45.

<sup>134</sup> Idem, p.6.

<sup>135</sup> S. Davidsen, *Demokrati fra neden*, in T. Høyer (Eds.), *Vietnam. Fra Kommandostyre mod retssamfund*, Copenhagen, Mellempøkeligt Samvirke, 2003, p.23.

discussion concerning their local community, and get information about local budgets and socio-economic development plans made for the area. The aim to let the locals and also the poorest people influence the public investments in the local areas. Jointly, this promotes good governance and transparency. It specifies a right-based development where the individual is given the option to choose what s/he finds best. This is a big step forwards a fulfilment of the Constitutional rights to participation.

#### **5.3.3.1. The Grassroots Democracy Decree and Human Development**

The Grassroots Democracy Decree is a result of the Thai Binh-rising in 1997 where farmers in Thai Binh's municipalities united in protest against the massive corruption among civil servants when they registered deeds and collected taxes. The government was attentive towards the farmers demand for good governance at the local level and the Grassroots Democracy Decree was issued in order to solve the problems.<sup>136</sup> It gives people a right to participate in decisions concerning investments and infrastructural projects and influence on the final decision. This strengthens the power of the locals towards the local party leaders by giving them a legal instrument to make claims. In addition, it also provides the locals with for them new knowledge about decision procedures and national policy programmes. This give them new capacities to participate in discussions and getting further knowledge and influence. It is an important step towards control of the local administrations and ensuring that the aims of poverty reduction and development for the poorest parts are reached.

On the other hand, the implementation of the Grassroots Democracy Decree has not been comprehensive.<sup>137</sup> The local bureaucrats have traditionally had quite free competences – according to the local saying: “the rule of the king stops at the gate of village”<sup>138</sup>, and these civil servants are not interested in getting their powers limited. In many cases they have simply ignored the requirement of involving the locals in any decision processes. There is also a structural obstacle towards the implementation, and this is the principle of democratic centralism, which gives higher administrative levels the final say in all decisions. That is, if the district Peoples Committees decides to build a road, then in practice, the locals can not overrule this decision even though they prefer

<sup>136</sup> S. Davidsen, *op.sit.*, note 135, p. 11-12.

<sup>137</sup> I. Nørlund, Tran Ngoc Ca and Nguyen Dinh Tuyen, *op.sit.*, note 117, p.126.

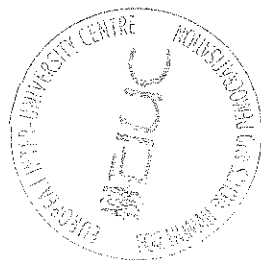
<sup>138</sup> *Idem*, p.50.

a new school.<sup>139</sup> Vietnam's decisions procedures is a complex reality and a form of legitimised consensus governance, where important decisions typically approved only after extensive consultancies at several administrative levels.<sup>140</sup> In addition, the locals are not used to be heard and participate in any political processes, and there is a widespread lack of capacity, and national NGOs in the sense of independent grassroots organisations do not exist.<sup>141</sup>

#### 5.4. Is a Right to Human Development Occuring?

In the late 1990s a poverty reduction strategy was formulated, the CPRGS, and the Grassroots Democracy Decree were set up to respond to the need of broadening the participation of the population in the decision making process. This has led to a paradigmatic shift, and now the *processes* of poverty reduction strategies is just as important as the *outcomes* of these strategies because only if the individuals are free to make choices for themselves, will a real pro-poor human development be guaranteed. On basis of these formal initiatives, a right to development can be recognised in Vietnam, because the comprehensive legal framework for increasing community participation at local level. The development process that is set up tends to be inclusive and have a social aim of providing human empowerment together with economic growth.

In summary, the goal towards human development is morally binding for both the Vietnamese authorities and the international donors given its foundation in the Millennium Declaration. It is not legally binding at neither national or international level but only a moral commitment. Therefore, the degree of implementation will be important to analyse.



<sup>139</sup> S. Davidsen, op.sit., note 135, p.18-20.

<sup>140</sup> I. Nørhund, Tran Ngoc Ca and Nguyen Dinh Tuyen, op.sit., note 117, p.9.

<sup>141</sup> Danida, *Dansk Udviklingsbistand til Vietnam 1993-2000*, Copenhagen, Foreign Ministry, p.16.

## CHAPTER 6: IMPLEMENTATION IN THE CENTRAL HIGHLANDS

### 6.1. Poverty Reduction Projects in the Central Highland

An empirical based analysis will now be used to find out if the implementation strategies for a development of human capabilities and opportunities among the population are based on real intentions. A strengthening of the capabilities the ethnic minorities in the Central Highlands could imply future changes in their present marginal position in the Vietnamese society as well as widespread development in the area. It will be analysed whether the development projects have a positive effect on the participation of the ethnic minorities in the Central Highlands.

Vietnam has experienced a remarkable economic growth during the last 10 years. The Gross National Product has doubled as a result of an average annual growth rate of 7,2%, and Vietnam, who had widespread famine in the mid-1980s, is now the worlds 2<sup>nd</sup> largest rice and coffee exporter. But the negative side of this rapid economic growth is that it has increased the gap between a few urban growth centres and the rest of the country.<sup>142</sup> Amartya Sen's empirical research has highlighted the possibility of divergences between the expansion of economic growth and income on the one hand, and the expansion of valuable human capabilities on the other.<sup>143</sup> A poverty report outlines the main causes behind poverty in Vietnam, and it is clear that poverty is occurring on an unequal basis. Living in rural areas is the primary characteristic behind being poor, and the dept of poverty is deepest in rural areas, when measured by the poverty gap index.<sup>144</sup> The number people living in poverty are 6,6% of the urban population whereas as high as 35,6% among the rural population. Other explanations are belonging to an ethnic minority, having a big household to support, low educational attainment, and low score at social-health indicators.<sup>145</sup>

### 6.2. The Participatory Approach

In accordance with the broad definition of human development as freedom to create capabilities, the occurrence of poverty in Vietnam is seen as more than inadequate income and human development; it is also vulnerability and lack of voice, power and

<sup>142</sup> Danida, op.sit., note 141, p.15.

<sup>143</sup> A. Sen, op.sit., note 108, p.2.

<sup>144</sup> Asian Development Bank, op.sit., note 9, p.27.

<sup>145</sup> Vietnam Development Report 2004, op.sit., note 19, p.5-50.



representation. "Poverty is a state of deprivation involving multiple dimensions" according to the joint donor community in Vietnam, and they measure poverty in economic statistics (GDP and households expenditures) as well as the Human Development Index (knowledge, longevity and a decent standard of living), and other indicators for social exclusion (Gini index, geographical distribution of poverty).<sup>146</sup> Participatory Poverty Assessments are also used, in which the poor themselves are asked about their subjective feeling of poverty, and what they see as causes behind poverty. Poverty has to be reduced by uplifting the poorest regions via a participatory voice from the poor, and this is promoted via more emphasis on self-reporting, self-esteem and participation among the target groups.

"Community driven development is a way to provide social and infrastructure services, to organise economic activity and resource management, to empower poor people, improve governance and enhance security of the poorest".<sup>147</sup>

When working with the participatory approach in the field, the donors use a definition more or less similar to the one above. This is in accordance with the assumption that it appears to be most economically efficient to use participatory assessments, it gives best value for donor money in so far that the poor themselves have the most to gain from making good use of resources that are targeted on poverty reduction. In addition, by giving responsibilities to the poor people and providing them with choices and giving them a voice, builds up valuable human capabilities that in the long run will enable them with the freedom to choose a life that they value, and not just strive for survival. It is important to underline that traditionally local governance meant implementing policies that was centrally decided, so the participatory self-managing model is a new approach in Vietnam, and its effect remains to be seen.

#### **6.2.1. The Participatory Approach in the Central Highlands**

The projects in focus in the Central Highlands are implemented by Danida, CordAid, Helvetas, Enda and Danish Red Cross. This is by no means an exhaustive list of all

<sup>146</sup> Vietnam Development Report 2004, op.cit., note 19, p.7.

<sup>147</sup> World Bank & Partnership to Support the Poorest Communes, op.cit., note 31, p.13.

initiated projects in the Central Highlands. It is only an indicator of the use of the participatory approach in the area.

Danida is one international donor, who is using the participatory approach in Vietnam. Poverty reduction is an overriding objective for the aid from Danida in order to ensure a stable and sustainable development. It is stated that investments in people and the human potential are vital because human and financial resources are driving forces behind economic growth.<sup>148</sup> This is in line with the broad poverty approach of human empowerment. Danida's aid in Vietnam is concentrated in poor provinces, among here Dak Lak and Lam Dong in the Central Highlands, where the projects provide clean water and sanitation in rural and city areas. There is no specific focus on ethnic minorities but it is assumed that their interests are taken into consideration, because they are among the poorest groups in the two provinces. Two of the projects are situated in the province capitals; Dalat and Buon Ma Thuot, where they provides better sanitation to the city through a sewerage system, cleaning the water and establishing property septic tanks and latrines outside the sewerage area.<sup>149</sup> The third project, National Rural Water Supply and Sanitation, provides the same sanitation services in remote rural areas in communes in Dak Lak. This project reaches communes with holes of poverty, among here ethnic minorities. Of importance here is the involvement of the local people in the project in order to make the projects sustainable in the long run. For example, when latrines are build at schools, the pupils get teaching about good hygiene, and specific sanitation trainers employed at the projects are working in the field in order to promote knowledge about good heath and hygiene.<sup>150</sup> The projects are all using an IEC Approach (Information, Education and Communication) focusing on a two-way communication with the overall purpose to "enable people to make their own choice between different types of WWS facilities, different hygiene practices and different ways of financing improvements".<sup>151</sup> The approach is working at all administrative levels all the way down to commune and village level (see annex 3). At present the locals have little knowledge about the linkages between good hygiene, diseases and

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<sup>148</sup> Danida, *A World of Difference. The Government's Vision for New Priorities in Danish Development Assistance 2004-2008*, June 2003, Copenhagen, Royal Danish Ministry of Foreign Affairs.

<sup>149</sup> Dalat City Sanitation Project. Green Clean and Beautiful, intern paper.

<sup>150</sup> J. Corning, op.sit., note 62.

<sup>151</sup> *IEC Approach*, intern paper, and, Ministry of Construction & Ministry of Agriculture and Rural Development, *National Rural Clean Water Supply and Sanitation Strategy up to Year 2020*, Hanoi, 2000, p.15.

health, but the projects should make them able to overcome the difficulties and improve their own living environment. When using the participatory approach in remote rural areas, where the illiteracy rate is high, Danida is using a set of photos illustrating problems concerning bad hygiene in order to make them identify their own problems and make their own plans. The approach is judged to have a reasonable success, also in involving ethnic representatives in the training and make them formulate ethnic choices.<sup>152</sup> Even though the locals are given a limited choice insofar they do not have any technical skills about latrines and sanitation system, they are left with a new feeling of ownership and are not just passive receivers but active participants.<sup>153</sup>

An evaluation have been made of another project; "Poverty Alleviation: Organizing and Building Peoples' Capacity in the Central Highlands" funded by the Dutch organisation CordAid in Kon Tum and Dak Lak provinces.<sup>154</sup> The project was set up in order to enhance the capacity of locals to participate in agricultural decisions concerning their own way of life, and therefore, it is in line with the new participatory approach. According to the evaluator it is challenging of the project to take up issues related to culture and participatory identification because of its sensitivity in Vietnam.<sup>155</sup> The project has established and trained Community Development Staff (CDS) to work daily in the ethnic villages and provide information and education to the local people, so they can obtain knowledge about concrete agricultural activities established through the project. The projects immediate institutional objective of capacity building is of interest here. The evaluator concludes that the local participation is still far from "classical participatory management" in a Western sense, even though the involvement of local voices in project decisions has risen considerably.<sup>156</sup> The limited participation is due to the fact that the higher administrative levels (district level at the Project Management Board) still have to approve all plans, even though they are formulated locally and communicated through the CDSs and mass organisations. Secondly, the successfully use and introduction of a new participatory approach depends on the degree of modernisation in the communes. Implementation in the most remote areas required

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<sup>152</sup> H. Stoltz, Support to Implementation of the National Rural Water Supply and Sanitation Strategy, Carl Bro Team Leader and IEC Specialist, Hanoi, interview, 02-06-04.

<sup>153</sup> J. Corning, op.sit., note 62.

<sup>154</sup> I. Nørlund, *Poverty Alleviation Programme. Organizing and Building People's Capacity in the Central Highlands. Kon Tum and Buon Don*, Evaluation with visit to the project areas 4-12 September 2003.

<sup>155</sup> Idem, p.4.

<sup>156</sup> Idem, p.16.

much better knowledge of local understandings which had an effect of the outcome from the project. One of the project coordinators explained the relations between the grassroots and the higher levels today as relations of "2 ups and 1 down, compared to the earlier 2 down and 1 up".<sup>157</sup> Concerning reaching the ethnic minorities the experience with the CDS workers shows that a certain composition promotes the effectiveness in communities with an ethnic majority. There is a need for more CDS workers who speaks the local language and who comes to the villages regularly in order to coordinate the activities.<sup>158</sup>

One thing that the ethnic minorities themselves identify as a capacity building component is increased vocational training. The Swiss organisation Helvetas is providing this through its "social forestry" programmes. Its Social Forestry Support Programmes aims at creating human capacities through a system of farmer-to-farmer training. In 2002 it made the CPRGS part of its overall aim, and today Helvetas has a specific aim at empowerment of the rural poor in remote and disadvantaged areas.<sup>159</sup> The projects focus on the local farmers in the remote villages, vocational training and education of social responsibilities. The main part is teaching and providing a new "generation of knowledge" and learn locals participatory planning.<sup>160</sup> The participatory approach is used in Dak Lak province and according to an international Helvetas worker there is no special obstacles, and "we have total freedom to do what we want". He explains by referring to the fact that they have worked in the province since the early 1990s and have now proved, they can be trusted.<sup>161</sup> Helvetas works at village level in order to make each household identify their problems related to forestry planning, and these will then be formulated into action plans. A similar Helvetas projects in Cao Bang province are based on the same approach in order to implement sustainable agriculture. The project started in 1995 and has now moved to its 3<sup>rd</sup> phase. The original aim was to obtain a "gradually understanding of the local situation", and by working locally on grassroots level. Helvetas has today obtained a "considerable

<sup>157</sup> I. Nørlund, op.cit., note 154, p.16.

<sup>158</sup> Idem, p.17.

<sup>159</sup> Helvetas Vietnam, *The Social Forestry Support Programme. Vietnam 1994-2002*, Hanoi, July 2003, p.25.

<sup>160</sup> Idem, p.29.

<sup>161</sup> Pierre-Yves Suter, Helvetas, Extension and Training Support Project (ETSP), Chief Technical Adviser, Hanoi, interview, 11-09-04.

understanding of the cultural particularities and the needs of the local farmers".<sup>162</sup> The main target is the local people out of which 98% are estimated to belong to ethnic minorities. Nguyen Lam Giang explains how it takes time to get accepted – both of the local farmers and of the local authorities, she estimates that for her as a foreigner coming from Hanoi it took 2-3 years to get accepted.<sup>163</sup> Therefore, it is important to continue the work with project workers with local experience in order to implement the new participatory approach. She explains how it takes time for the local authorities to loosen up from the former top-down decision process. It is estimated that the part of the projects immediate objectives that are not working are caused of lacking skills and lacking will to co-operate among the district Peoples Committees. It is difficult to convince them of the importance of going to commune and village more often in order to get an understanding of the local condition and be able to manage more effective.<sup>164</sup> In connection to this, an important part of the educational training provided by Helvetas is to learn them to look equal at all ethnic groups, and take different approaches and ways of living into account.

Enda Vietnam is pointing to the same problems with co-operation with district Peoples Committees due to the very limited time they devote to the projects.<sup>165</sup> Enda (Environmental Development Action in the Third World) aims at alleviating poverty and promote an environmental sustainable socio-economic development through active participation of target groups and local grassroots in all phases of their projects. It is involved in an integrated community and ecological development in poor Vietnamese provinces with a specific focus on the poorest ethnic minority households. It aims at a "promotion of the cultural heritage of ethnic minorities"<sup>166</sup>, and a main focus is to empower the ethnic minorities in order to be able to develop themselves. The Director describes this as a new way to focus at the village level and integrate traditional ways of farming with new farming methods into a holistic approach.

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<sup>162</sup> Helvetas Vietnam, *Now towards the future*, Hanoi, Helvetas Vietnam, 2002, p.14-15.

<sup>163</sup> Nguyen Lam Giang, Helvetas, Programme Officer, Hanoi, interview, 11-06-04.

<sup>164</sup> Idem.

<sup>165</sup> Enda Vietnam, *Ethnic Minority Sustainable Community Development in Vietnam. On-progress Report*, Project No. C-334/1029C, intern paper, p.18.

<sup>166</sup> Enda Vietnam, <http://www.endavn.org.vn> (entered 2004-06-06).

"The Governments attention to ethnic minorities is using a different approach. It put a focus on building infrastructure like beautiful roads, and they are never-ever with the people themselves".<sup>167</sup>

This made the co-operation with the authorities hard in the beginning. The bureaucrats at the district Peoples Committees, who very primarily Kinh without knowledge to any ethnic language, were sceptical towards Enda's intercultural approach, however, today the co-operation are described as being in big progress, and the Enda approach and the governmental approach are said to complement each other. In the provinces of Phu Yen and Quang Nhai, Enda-Vn has successful projects.<sup>168</sup> There have been established Community Management Committees (or Boards), elected of and among the villagers, who are trained in forestry by the project officer and given the capacity to inform the locals about health, education and sanitation awareness. Through demonstrations of new techniques and experience sharing, the farmers capacities increases. Its a learning by doing method, and the new self-development and management mechanisms gets implemented. This approach has had an efficient outcome according to get the ethnic farmers to start growing wet rice, which have a better outcome than dry rice, that are traditionally grown. However, it takes time to learn new farming methods, and making them sustainable in the future also. You cannot just come and demand a change without providing useful information about it – therefore Enda has a success rate from 70% (Chao village) to 100% (Nua village) in making farmers change to wet rice. However, the situation is quote different when looking at Enda's projects in the Central Highlands; Dak Lak and Gai Lai provinces.

To sum up, all the donor projects make use of a participatory approach that aims at involving the locals in making decisions about the concrete poverty reduction projects. The implementation is said to have improved the involvement of the local participation, however, the centralised decision process and incompetence as well as corruption among the staff at district People's Committees are obstacles against a full implementation of the approach. As it will be shown in the following part, some projects have even been closed down by the central authorities.

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<sup>167</sup> Bang Anh Tuan, Environment and Development in Action (enda), Program Manager, Ho Chi Minh City, interview, 03-06-04.

<sup>168</sup> Enda Vietnam, op.sit., note 165, p.1-41.

### 6.2.2. Projects Banned by the Authorities

Enda had a project focused on ethnic minority support in Dak Lak from 2000 to 2003. This success was in line with the above mentioned projects in Phu Yen and Quang Nhai. However, "the unfavourable political environment in The Central Highlands"<sup>169</sup> – the demonstrations in 2001 as described in part 4.4. – has had an effect on the final outcome of the project. The district Peoples Committees was very reluctant to co-operate, and a planned extension of the project in another commune was directly "asked to stop without concrete reasons".<sup>170</sup> Similar to this, a "Sustainable Integrated Socio-Economic Development Project in Gia Lai province" was stopped in 2002. The project took place in Iarhu commune in Chu Se district which "was one of the cradles" of the demonstrations in 2001, and after these incidents, the Enda workers was not allowed to visit the site and in 2002, Enda could not get their operational permissions to Gia Lai renewed.<sup>171</sup> It is explained how the local police held a close supervision and always followed the project workers when they entered the projects, not only in Gia Lai and Dak Lak but also in Phu Yen and Quang Nhai. This has made Enda change their working methods from village level to a more general focus at commune level.

"Now our work is broader, and we don't go to village level. We focus on a cluster of villages and implement all programmes through technical teams; that is villagers we have trained...I guess we are still welcome in the Central Highlands...but only if we work on the conditions used by the government."<sup>172</sup>

Another international donor was more or less forced to end their project in the Central Highlands after the situation in 2001. That is the Danish Red Cross who has been in Vietnam since 1994 and was involved with the implementing of a Primary Health Care Programme in Dak Lak province. This programme was handled over to local Red Cross in 2001, after which Danish Red Cross wanted to start a similar programme in the neighbour province, Gai Lai, where they could carry on with experiences from Dak Lak and make use of the local knowledge they had gained. The local authorities in Gai Lai said yes to the project but the counterpart, Vietnam Red Cross, would not approve it,

<sup>169</sup> Enda Vietnam, op.sit., note 165, p.49.

<sup>170</sup> Idem, p.42-50.

<sup>171</sup> Idem, p.54-56.

<sup>172</sup> Bang Anh Tuan, op.sit., note 167.

and in the end, the project was given up. Danish Red Cross programme worker, Anette Cramer, explains this with reference to the fact that the Vietnam Red Cross is a mass organisation and therefore more or less controlled by the government:

“The atmosphere in Dak Lak was much more relaxed before the demonstrations in 2001, much more relaxed. It was possible to work there as long as you are well aware, that there is always someone who listens when you are in minority areas (my translation)”.<sup>173</sup>

But it was just after the demonstrations in 2001 that the Gai Lai project needed approval and didn't get it. In addition, CordAid wanted to implement a capacity building project in Gai Lai as well, but the province prohibited it, officially due to low capacity to manage the project.<sup>174</sup>

It is difficult to explain why Danish Red Cross, Enda and CoreAid are not allowed to work in the Central Highlands when Danida and Helvetas do not have the same problems with the authorities. It seems as if the authorities are not interested in development projects coming too deep into the remote areas. A possible explanation can be that Danida and Helvetas do not have an explicit focus on ethnic minorities but only a focus on poor and vulnerable groups. In reality, however, they also work with ethnic minorities because they are the most vulnerable in the project areas. In addition, a donor like Danida is a big donor financially, and more in accordance with the governmental priorities of projects that can generate economic development in the area and not just poverty oriented. Keeping in mind how the ethnic demonstrations in 2001 and 2004 were met with force from the police, and the government's reluctance against discussions about recognition as indigenous, it appears easier to explain why the international donors were forced to leave the area. One observer explains this as a suspicious attitude from the government towards all kinds of gatherings in the Central

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<sup>173</sup> Anette Cramer, Danish Red Cross Representative, Hanoi, interview 31-05-04.

<sup>174</sup> According to the evaluator: "The reason for the withdrawal is not quite clear, but for a couple of years the Central Highlands have been quite sensitive areas with some conflicts occurring. A project like the CordAid supported one, is a new invention which demands local engagement and interest to obtain local support", I. Nørhø, *op.cit.*, note 146, p.9.



Highlands, and therefore a wish of eliminate too much empowerment in among the ethnic groups.<sup>175</sup>

On this background, it might be reasonable to believe that the government is not interested in a real implementation of the strategies for human development in the Central Highlands.

In addition, the possibilities for attending school and combating illiteracy are very strong indicators for increasing human capabilities. Here it is important to see the potential in education beyond the increased possibilities of getting a higher income, insofar, as a person benefits from education "in reading, communicating, arguing, in being able to choose on a more informed way, in being taken more seriously and so on".<sup>176</sup> In 2002, 90,1% of the Vietnamese children attended primary school, 53,8% lower secondary and 41,8% upper secondary. However, the figures for ethnic minorities and the poorest quintile of the population are below these average figures. Only 80% of the ethnic minorities attend primary school, 48% lower secondary and 19,3% upper secondary.<sup>177</sup> These low attendance rates are primarily occurring among ethnic groups in the Central Highlands, where the attendance rates are far below average, around 60% for primary school attendance.<sup>178</sup> This is a big obstacle against poverty reduction in the area.

### 6.3. Obstacles and Possibilities in the Central Highlands

One obstacle against a real involvement of the ethnic minorities through the participatory approach is that the approach tends to strengthening existing power structures at the local level. A 2003 study has found that the participation of ethnic minority households in most cases continues to be very limited. The decentralization process is giving commune leaders and officials more responsibilities, because they already have capabilities to cooperate and discuss, and therefore, the reforms are only consolidating existing unequal power structures in the communes.<sup>179</sup> This is recognised in the CoreAid project. In the evaluation of the project it is specified how the

<sup>175</sup> Joe Hannah, op.sit., note 60.

<sup>176</sup> A. Sen, op.sit., note 108, p.292-297.

<sup>177</sup> Vietnam Development Report 2004, op.sit., note 19, p.62.

<sup>178</sup> Poverty Task Force, *Localizing MDGs for Poverty Reduction in Viet Nam: Promoting Ethnic Minority Development*, Hanoi, 2002, p.6.

<sup>179</sup> Vietnam Development Report 2004, op.sit., note 19, p.34.

agricultural models had better success with better off families, and "some found that the models should concentrate on the better off to show good results for the others".<sup>180</sup> In addition, the leaders are usually not the poor, and the project is making them better off.

Another obstacle is corruption among the bureaucrats in the Peoples Committees. Many of those employed at district level in the Central Highlands originate from provinces further North, mainly the provinces Nghe An and Ha Tinh, which are known at central level in Hanoi for their loyalty to the Party. Historically it was in these provinces that the first socialist co-operatives were established in the 1930s, and the father of the nation, Ho Chi Minh, originates from the area. Therefore the government prefer to have loyal bureaucrats to administer in the Central Highlands in order to avoid the critical voices from the provinces here. These bureaucrats recognize each other by their dialect and form networks when outside their home province which are very strong.

"In the Central Highland, such networks attain a mafia-like character because of the degree of control which is exerted over the administration and its resources through informal channels".<sup>181</sup>

Some international workers confirmed this incompetent network and underlined that they would never hire people from these provinces.<sup>182</sup> This makes one development worker to conclude:

"I will not say that the local authorities know nothing, but we have a problem. They don't know anything about ethnic culture".<sup>183</sup>

A study of perceived causes of poverty in Dak Lak province supports this dimension of corruption. The poor people perceive inability and weakness of grassroots authorities and cadres, and lack of transparency, accountability and lack of people's participation in decision making as some of the causes for poverty in the local area.<sup>184</sup> Another donor evaluation explains that the problems in the public administrations stem from unclear

<sup>180</sup> I. Nørlund, *op.cit.*, note 154, p.33.

<sup>181</sup> O. Salemik, *op.cit.*, note 10, p.323.

<sup>182</sup> V. Hemmel, *op.cit.*, note 61.

<sup>183</sup> Nguyen Lam Giang, *op.cit.*, note 163.

<sup>184</sup> Vietnam Development Report 2004, *op.cit.*, note 19, p.24.

responsibilities. The civil servants still do not meet new managerial requirements in terms of administrative capacity and skills, and old managerial habits, practices and narrow regional interests affect public administration.<sup>185</sup>

The need for specific politics targeted on ethnic minority areas and upland communities is repeated in several documents.<sup>186</sup> Specific targeting is necessary due to big cultural differences between Kinh and ethnic culture. For example new technologies in agriculture are particularly promoted among the ethnic minorities without concern for local knowledge and traditional use of land, which creates a reluctance among the minorities to adapt to these new technologies. Therefore, it is important to modernize unhealthy way of livings, and still maintain and use certain traditions. However, this approach seems quite difficult to promote due to the widespread perception among both Kinh people and the better educated ethnic people, which in order to develop and modernise the traditional ethnic habits have to adapt to a united national cultural identity. "Culture is usually understood in Vietnam as the visual sign like communal houses, clothing, dances, and customs related to the important social events in the life time (weddings, funerals)", which in a very narrow definition. Therefore, what the Vietnamese wants to preserve is more or less visual ethnicity (useful for tourism) rather than make use if local knowledge.<sup>187</sup> As in the CoreAid project, which had a specific purpose of giving the staff a better understanding of ethnic culture in the local communities, and courses in ethnic culture as well as handicraft training in traditional weaving and basket making have improved the intercultural understanding and awareness. But still an understanding of broader aspects of the local traditions is lacking.<sup>188</sup>

In summary, there are a lot of obstacles to remove before the possibilities for a participatory approach can be implemented in the Central Highlands. But it should be notices that there are progresses going on towards increased accountabilities, administrative reforms and a broader understanding of ethnic culture. But it is also clear that it will take time for the new participatory approach to work properly.

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<sup>185</sup> Danida, op.sit., note 132, p.141.

<sup>186</sup> World Bank & The Partnership to Support the Poorest Communes, op.sit., note 31, Socialist Republic of Vietnam, op.sit., note 4, Poverty Task Force, op.sit.178.

<sup>187</sup> I. Nørlund, op.sit., note 154, p.42.

<sup>188</sup> Idem, p.13.

#### 6.4. A *real* Right to Participation?

The Grassroots Democracy Decree has a right approach, and the CPRGS speaks in favour of a participatory process in order to get an inclusive development for all. However, many developmental workers informed that the two documents are not commonly known among administrative workers and the population when you come down at district and commune level. This illustrates that a real implementation of the new participatory approach are lacking behind, because a real implementation would require that people know about their new right.

The degree of implementation specifically in the Central Highlands are lacking behind other regions in Vietnam. This could be explained by referring to the governmental reluctance to provide the ethnic minorities with capabilities that could be used to claim a right as indigenous. Therefore, there is a formal right to participation, but not a real will from central level to actually implement this.

However, according to the phases in the "spiral-model", the government has put socio-economic developmental tools and the participatory approach on the political agenda, which in accordance with this policy area places Vietnam in a prescriptive status. There is a tendency towards a real dialogue about generating an inclusive development in order fight against general poverty, however it is not at all institutionalised.

## CHAPTER 7: CONCLUSION

The history of the ethnic minorities in the Central Highlands of Vietnam is filled with conflict due to the French and the Americans strategic use of the ethnic minorities as an allied against the Kinh population. In the past the ethnic resistance army, FULRO, had many supporters, but today there does not seem to be any self-organisation among the ethnic minorities. It is argued that the ethnic demonstrations in the Central Highlands appear to be caused by frustration among the ethnic minorities of being marginalised and excluded from the otherwise impressive degree of poverty reduction in Vietnam. This conclusion is based on judgements made by the international and Vietnamese development workers with experience from the area. The ethnic minorities are disappointed of being trapped in holes of poverty, which they at present do not possess the capabilities to escape. The Vietnamese government perceive the demonstrations as aspirations for political autonomy and therefore a security threat against the national unity and central political power, which leads to imposed restrictions on the right to association, the right to freedom of religion etc. in the Central Highlands. In general, the government attempt to limit the use of civil and political rights among the ethnic minorities in order to ensure a pacified area that strengthens the national unity.

This actual denial of human rights for the ethnic minorities is similar to the Vietnamese government's reluctance against getting involved in a real human rights dialogue with the international community. Vietnam has adhered to international human rights documents, but it does not fulfil its obligations to implement and make use of these human rights. Based on that, Vietnam has been classified as a repressive state according to the "spiral-model", because it ignores the international human rights standards. However, Vietnam is not unfamiliar with human rights norms, given the traditions from Confucianism and Buddhism, and it has been illustrated in the cross-cultural model that human rights ideals of freedom and equality can be identified in the Vietnamese Constitution, the CPRGS and the Grassroots Democracy Decree.

In addition, the CPRGS and the Grassroots Democracy Decree can be seen as policy formulations that mark a turning point towards implementation of human rights in Vietnam. Of importance for answering the research question is the identification of a right to human development in the two policy strategies. The result from the analysis is

that their commitments to a socio-economic poverty reduction strategy, in accordance with the Millennium Goals, set up the political aim of increasing the development of the people's human capabilities. It is clear that Vietnam has formulated national strategies for pro-poor growth and moved a step towards allowing local people to participate in the policy formulation of the specific development strategies. This participatory approach aims at enabling ethnic minorities to strengthen human capabilities in so far as they are given a democratic right to raise their voice in discussions and decision processes. The CPRGS does not explicitly refer to human rights but it represents a new and wider approach towards poverty reduction as human empowerment in form of local participation. In addition, the Grassroots Democracy Decree, which contains a right based approach, aims at empowering people to participate in decisions taken at local level in order to enhance their influence. In essence, a broader approach to rights has been provided. Human rights and human development interlink.

Though, it is important to notice that there is not necessarily congruence between a formal right to human development and a realisation of this right. The interviews with the development workers made during the field research in Vietnam gave a general impression of a very complicated process of implementing formal rights to human development in the Central Highlands. However, one positive conclusion to draw, is that the development workers all pointed at the new participatory approach as a major strengthening of the human capabilities among the ethnic minorities, because it is the first time they get the opportunity to participate in decisions concerning their own households. But it is also very clear that there exists a broad range of obstacles against a real implementation. The government block certain projects in the area, and those that are allowed to continue face problems with widespread corruption among the civil servants because these are not interested in giving some of their power to the local ethnic people. Already existing unequal power structures obstruct the poorest in actually participation, and this makes it difficult to make the development inclusive. It can be questioned if the new participatory development approach essentially benefits the ethnic minorities.

On this background, **the main conclusion** of the empirical analysis is that the ethnic minorities in the Central Highlands have not experienced an increased real protection of their human rights, nor have they gained human capabilities that enable them to develop out of poverty. However, it is clear that the scope of formal protection has been widened, insofar that a right to human development has been linked to civil and political rights of democratic participation in local governance. But the government obstructs real protection. The potential for a more positive development in the future exists as cooperation with international donors can promote further realisation of the right to participate for the ethnic minorities. Is not a legal right in Vietnam, and therefore the way to strengthen it is enforcing monitoring from the international donors.

Possibilities for a better congruence between formal rights and the real implementation of these also depends on the governments willingness to look at the situation in the Central Highlands as the development problem it is, and not perceive it as a security problem. The government has to look beyond the history of war and conflict in the area, because at present there is no substantive voiced autonomy claims from the ethnic minorities in the area. There are however no guarantee against a future situation where strengthened human capabilities and a real implementation of the freedom to make own choices among the ethnic minorities will create a common claim of being recognised as indigenous peoples with rights to claim autonomy. Unfortunately, this might be the risk, which the government is reluctant to take.

Finally, Vietnam's hostility towards the ethnic minorities in the Central Highlands should be seen in a broader perspective. It might not be exceptional in a negative way, when comparing with our own country's history. As one writer argues:

"I do not claim that it [Vietnamese policy in the Central Highlands] differs much from ethnic policies in other countries of Asia, Africa, the Americas or Europe. This in itself is remarkable, given the history of violence and foreign intervention in Vietnam and the Central Highlands in particular. In this sense, Vietnam's record may not be better, but hardly worse than any country in, for example, Europe or Asia".<sup>189</sup>

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<sup>189</sup> O. Salemik, op.sit., note 10, p.262.

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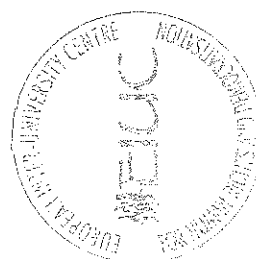
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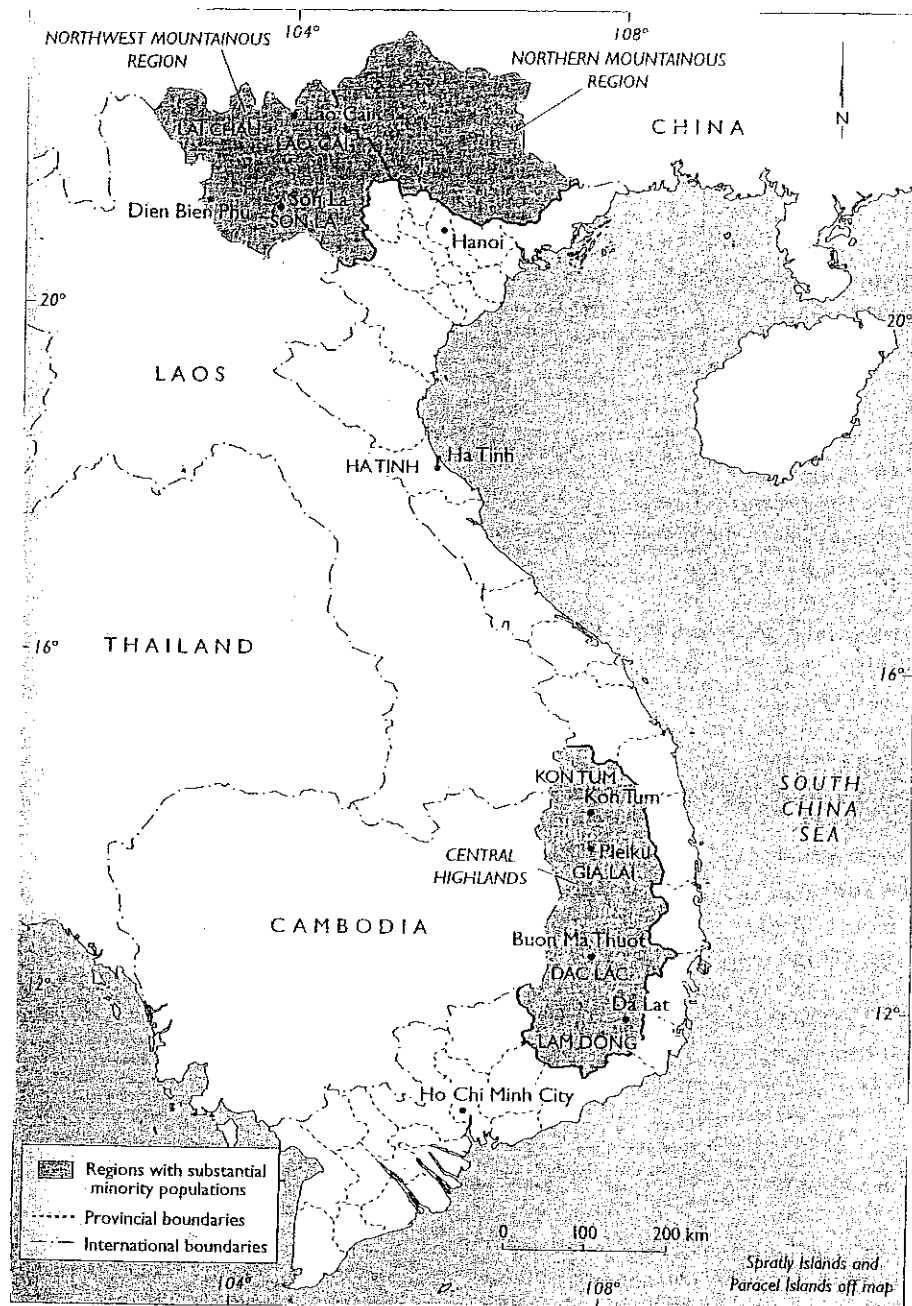
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## Annex 1: Map of Vietnam



(Source: McElwee, Pamela, *Becoming Socialist or Becoming Kinh? Government Policies for Ethnic Minorities in the Socialist Republic of Viet Nam*, in Christopher R. Duncan (Eds.), *Civilizing the Margins. Southeast Asian Government Policies for the Development of Minorities*, New York, Cornell University Press, 2004, p.183.)

## Annex 2: The Political Structure in Vietnam

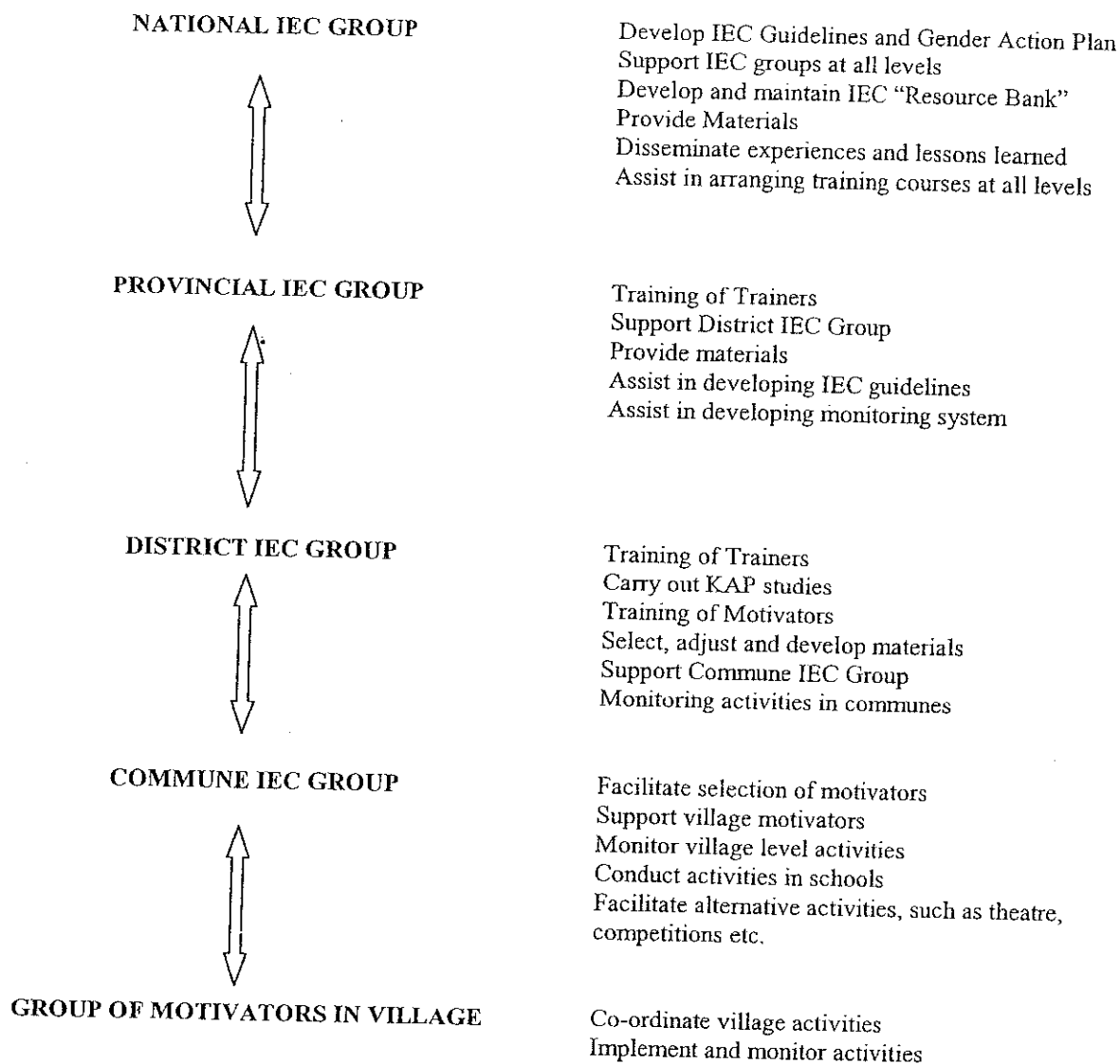
Level	Communist Party	Legislative Body	Executive Body	Mass-organisations
Central	Central Committee of the Communist Party	National Assembly	Government	Central Committees of Fatherland Front, Ho Chi Minh Youth Union, Women's Federation, Trade Union, Farmers' Association and other Mass Organisations
Provinces	Provincial Committee of Communism Party	Provincial People's Council	Provincial People's Committee	Provincial Committees of Mass Organisations
Districts	District Committee of Communism Party	District People's Council	People's Committee Services	District-level Mass Organisations
Communes	Party cell	Commune People's Council	Commune People's Committee	Commune Mass Organisations

(source: Hernø, Rolf, CARE in Vietnam, Rural Development Advisor, Hanoi 9/06/04.)

## Annex 3: Example of the Participatory Approach

### PROPOSED IEC STRUCTURE

### PROPOSED IEC TASKS



(Source: Rural Water Supply and Sanitation, *IEC Approach*, intern paper, July 2002.)

