This is the published version


Available from Deakin Research Online

http://hdl.handle.net/10536/DRO/DU:30028471

Reproduced with the kind permission of the copyright owner

Copyright: 2010, Taylor and Francis
Part III

*Rights in conflict*
With the emergence of the concept of 'intangible cultural heritage' in the last decade, a new set of human rights issues confronts heritage professionals. These relate to 'cultural rights'; that is, group and individual rights to maintain those heritage elements that underpin cultural identity and to enjoy self-determination in cultural terms. There is a need to tread warily in dealing with intangible cultural heritage since a totally different set of ethical issues arises when seeking to protect 'practices, representations, expressions, knowledge, skills' – as the 2003 UNESCO Convention for the Safeguarding of Intangible Heritage defines intangible heritage – for these heritage elements are embodied in people. It is not ethically possible to 'own' people in the way that we do the tangible heritage of physical places and artefacts, nor to buy and sell, destroy, rebuild or preserve them (Logan 2007a, 2008, 2009 in press). Although the Convention came into force fairly quickly with the requisite 30 states signed up by January 2006, a number of countries which have a strong record in other forms of cultural heritage conservation have misgivings about it and have so far refused to ratify it.

The Convention refers to the notion of human rights as a way of shaping and, indeed, limiting the proposed intangible list. Frequently, however, cultural rights as one form of human rights and the one most directly linked to intangible cultural heritage, comes into direct conflict with other human rights, such as women’s rights, or the rights of children to be children rather than young labourers or soldiers. Conceptions of what is essential to cultural identity vary, of course, across time and from one part of the world to another. But, in some instances, opposing claims to cultural rights may be put forward by different groups locked in conflict in the same time and place.

These complexities are discussed in this chapter through a case study of the hill-tribes of the Tay Nguyen or Central Highlands region of the Socialist Republic of Vietnam. Here claims to the community's right to protect traditional culture, including local religious practices, clash with the right to religious freedom, especially at the individual level. Complicating the situation is the underlying resource competition in this part of Vietnam that
has boiled over recently into violent clashes with the authorities in 2001 and 2005. State-initiated population migrations into the central uplands have impacted upon Tay Nguyen land tenure rights and created major land use changes. The intervention of Christian sects and anti-communist overseas Vietnamese (Viet kieu), notably in the United States, adds to the brew. Unsurprisingly, the Vietnamese state reasserted its control over the Tay Nguyen area and people. Yet, at the same time the state also chose to embark upon a campaign to celebrate and protect one of the most distinctive features of the Tay Nguyen’s intangible heritage, its gong-playing culture.

Given this complex and highly politicized context, what does the decision to inscribe the gong-playing culture mean? The chapter seeks to explicate this decision and, in so doing, raises questions about cultural heritage theory and practice that relate not only to Vietnam but to other parts of the world where there are clashes of rights claims.

The Tay Nguyen gongs

In November 2005 the Socialist Republic of Vietnam celebrated the addition of its ‘Tay gong-playing skills’ to the then 90-strong list of intangible heritage items proclaimed by UNESCO as ‘Masterpieces of the Oral and Intangible Heritage of Humanity’. This focused the world’s attention on the plateaus of the mid-Tay Nguyen region which claims to have more gongs than any other area inside or outside Vietnam – about 6,000 sets in 20 minority groups in the four provinces of Dak Lak, Kon Tum, Lam Dong and Gia Lai (Pleiku district). Gong-playing has played a central role in the traditional life of the Tay Nguyen peoples. According to UNESCO (2006: Section 2.1), the gongs are ‘permanent historical witness of the development of the people’s daily lives’ and ‘the unique symbol of the highlanders’ cultural traditions’. The gongs are featured in most rituals, such as ceremonies to welcome the New Year, celebrate the rice harvest or the construction of a new communal house, bid farewell to soldiers going to war and celebrate their victories. They mark the life cycle, being used in the *thoi tai* (blowing the ears) ceremony to usher the new-born child into life, in weddings and in the *bo ma* (leaving the grave) ceremony to bring the dead to the sacred world. The gongs are valued as a medium of communication between people and their deities. According to the Central Highlanders’ conception, behind each gong resides a deity and the older the gongs, the more powerful the deities are said to be. Additionally, the gongs have an economic value and represent a symbol of wealth and power. A gong set was once as valuable as 30 buffaloes but has inflated to 85 or more (Alperson et al. 2007).

This cultural and economic significance notwithstanding, these days the young Tay Nguyen people are seen to be losing interest in gong-playing and the gong culture generally, while the men with gong-tuning and playing skills are ageing and declining in number (UNESCO 2006: Sections
Taking advice from Dr Tran Van Khe, an ethnomusicologist at the Paris Sorbonne noted for focusing world attention on traditional music, the UNESCO Hanoi Office commenced an Action Plan in 2006 to stabilize the gong-playing culture. With funding from the government of Norway, the project seeks to develop an inventory of practitioners and nomination of

*Figure 12.1 Inter-generational transmission of traditional gong-playing skills (Courtesy: UNESCO Hanoi Office).*
Figure 12.2 Young men learning traditional skills in a village gong club (Courtesy: UNESCO Hanoi Office).

a select group to the Vietnamese Government for recognition as 'National Practitioners', to re-energize the village gong clubs so that the skills will be better valued and transmitted to young people, to establish training courses and to promote gong-playing nationally and internationally through performances and publications.

**Minority rights**

The Vietnamese Government selected the gong-playing culture for submission to the Masterpieces list because it was seen as having the strongest case of all the items on the country's own intangible list established under the 2001 *Law on Cultural Heritage*. Already the cycle of Nguyen Dynasty court music and dance had been inscribed in 2003 as Vietnam's first Masterpiece, a paradoxical action by one of the world's remaining communist regimes, as Long (2003) has explained. Others on the tentative list include lullabies from Central Vietnam, Quan Ho antiphonal singing from 49 villages in Bac Ninh Province near Hanoi, Ca Tru singing and instrumental chamber music, the dances of the Thai minority, and various kinds of puppetry including the internationally known water puppetry developed in Vietnam's rice fields (ACCU 1998: 106-7).
Vietnam has 54 officially recognized ethnic groups that provide a rich cultural diversity and intangible cultural heritage. Two groups make up the bulk of the lowlanders – the Kinh who comprise 87 per cent of the total Vietnamese population of 85.3 million (July 2007), and the Hoa (ethnic Chinese of the Han linguistic family), who form 1.5 per cent of the total. The other minorities mostly live in the mountainous areas and have highly complex cultural characteristics. For instance, languages from several ethno-linguistic families are spoken in villages located in the same valley or even in the same village. In the Tay Nguyen region, where the population totals over 2 million, the ethnic mix is very varied, with, for instance, the Ba-Na belonging to the Mon-Khmer language group living alongside the Gia-Rai and Ede who are classified as part of the Austronesian language group.

Despite their significant cultural differences, in common Kinh parlance and in much official policy in Vietnam, the hill-tribes tend to be lumped together. The Kinh have traditionally looked down on them, placing little value on cultural diversity and wanting to assimilate them into the lifestyle of the Kinh majority. They have largely been ignored in histories of Vietnam written by the Kinh Viet or the French who colonized Vietnam in the nineteenth and first half of the twentieth centuries. They played no part in imperial Vietnam and, apart from the Catholic missionaries who ventured into the plateaus and mountains, they were largely ignored by the colonial French who concentrated in lowland towns and ports. Only where French-owned plantations were set up in the mountains or when the colonial government decided to establish a new summer capital at Da Lat on the southern edge of the Tay Nguyen region did the French come into close contact with them.

Nearly all the hill-tribes lacked traditional writing skills and their oral histories were inaccessible and hence disregarded. Vietnamese ethnologists, according to Rambo (2005: 39–40), have been handicapped by reliance on a Soviet theoretical commitment to ‘a rigidly unilineal model of cultural evolution’, with the consequence that the various ethnic groups were placed on a ‘ladder of evolutionary progress’. Western ethnographers and anthropologists, at least in colonial times, tended to view all the hill-tribes through Orientalist eyes, which, it can be argued, further reinforced the Kinh sense of superiority. The early French referred to them as ‘sauvages’ – a translation of the Vietnamese term ‘moi’ once used for the hill-tribes people. As late as 1998 a Vietnamese official outlining her country’s approach to safeguarding intangible cultural heritage at a regional seminar in Tokyo was still able to describe 53 of Vietnam’s 54 ethnic group cultures as being merely folklore, with only the Kinh culture being based on written transmission and scholarship (ACCU 1998: 105).

Patricia Pelley (1998) describes the efforts made by the Vietnamese government from the 1950s to deal with the ethnic identity question as national independence was achieved. One of these was the introduction of legislative
and administrative programmes to 'sedentarize the nomads' and to draw the younger generation into the mainstream through education policies and employment creation. Another effort, striking to the heart of ethnic minority identity issues, was to draw up an official list of recognized ethnic groups – the 54 groups we have been discussing compared with the 90 or so ethnic groups recognized by some non-government analyses. As with the appointment of Buddhist religious leaders, the granting of official recognition was a way of bringing the groups under control, of setting in place social structures in which a leadership layer felt an obligation to accede to Hanoi's dictates.

Many of the ethnic minority traditions had been interrupted during the long period of independence wars so that the same Vietnamese official speaking in Tokyo could note that even the over 40s generation had forgotten their intangible cultural heritage (ACCU 1998: 107). Gong-playing was losing its function as a dialogue with the deities and was increasingly restricted to traditional ceremonies where it was performed merely as entertainment. In 1977 the national cultural authorities had determined that such ceremonies were superstition and they were stopped (ACCU 1998: 109). A revival began in the 1990s when cultural policies eased and the Ministry of Culture and Information, together with the Association of Vietnamese Folklorists, began to organize annual festivals and competitions at ethnic district, provincial and regional levels.

It is clear that there has been a softening of the assimilationist approach in recent times. The speech by Deputy Prime Minister Nguyen Thien Nhan at a Hanoi education conference in January 2008 typifies this shift (Viet Nam News 2008). Reviewing ethnic minority boarding schools' performance in the decade 1997–2007 and outlining the course of development to 2010, Nhan maintained, on the one hand, that the ethnic minority children were not getting enough general education and Vietnamese language instruction in the boarding schools created for them. On the other hand, he insisted that other educational activities should be organized according to the traditions of each ethnic group, such as encouraging students to wear their national dress. The pupils would study their ethnic cultures and languages but also learn about the other cultures in their areas.

This policy softening towards ethnic minorities brings the Vietnamese Government more closely into line with the various international statements on minority rights, such as the United Nations' 1966 International Covenant on Civil and Political Rights (ICCPR) and 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and UNESCO's 2001 Declaration on Cultural Diversity. Nevertheless, to the Vietnamese majority and the Government of Vietnam today, how to incorporate the cultures of the minority hill-tribes peoples into the Vietnamese self-image continues to be a complex and sensitive issue. This is not merely a question of cultural heritage protection; it involves a fundamental ethical, political and administrative question: how can Vietnam bridge the economic
and cultural divide between the country's dominant lowlanders and the ethnic minorities, most of whom live in impoverished circumstances in the mountainous north and centre of Vietnam? Of course this is not a dilemma just for Vietnam but is replicated in all countries where dominant ethnic or racial groups have an advanced standard of living and ethnic or racial minorities live in poverty and ill-health.

There is also the ongoing argument in Vietnam about the nature of democracy and the form that best suits the particular needs of the country. The Kinh majority governs, but through a political structure still dominated by a single party — the Communist Party of Vietnam — although many commentators see the country being transformed by 'creeping pluralism' (Porter 1993; Logan 2000: ch. 8; Koh 2006). In a democracy, majority rule is appropriate; however, it is usually argued that democracies must also respect the rights of minority groups, including at least some aspects of their cultural identity and underlying heritage.

**Cultural rights**

Indeed the maintenance of one's culture is seen in the UN arena these days to be part of one's unalienable human rights. Since at least 1966, when UNESCO’s General Conference adopted the *Declaration on the Principles of International Cultural Cooperation*, it has become the standard view of the international agencies that, as Article 1 states, 'Each culture has a dignity and value which must be respected and preserved' and 'every people has the right and duty to develop its culture'. Such statements of principle set aside the myriad complexities that arise when governments or NGOs seek to apply them. All around the world political tensions emerge, for instance, when cultural diversity is seen to be undermining the social cohesion of the peoples united within a political state or when claims to cultural rights conflict with other human rights (Logan 2007b).

With regard to Vietnam specifically, there is little written about cultural rights — or, indeed, human rights generally. The book edited by Oscar Salemink (2001) outlined Vietnam's rich cultural diversity. Originating in a 1994 UNESCO International Experts Meeting on the ‘Preservation and Revitalisation of the Intangible Cultural Heritage of the Ethnic Minorities in Vietnam’, it is an important early attempt to propose measures to preserve cultural diversity in a developing country. This helped the push for the 2001 *Law on Cultural Heritage*, a law that is advanced by global standards in incorporating intangible heritage alongside the tangible. Its implementation is less 'advanced', however, in the sense that it relies almost entirely on top-down governmental and bureaucratic decisions about what is to be regarded as significant Vietnamese heritage. Neither Salemink's book nor the law refers specifically to the notion of cultural rights or to the difficulties of conflicting rights claims.
A handful of other publications treat human rights generally in Vietnam. The Harvard Law School research associate Ta Van Tai (1988) traced the pre-modern Vietnamese record of what we now call human rights, arguing that this record matched many of today's international human rights standards. Vo Van Ai (2000) focused on the contradictions between the post-independence official Vietnamese discourse about human rights and the internal repression of dissent, but is now outdated. From the point of view of this chapter, John Gillespie's 2006 work is most useful, giving a brief outline of the place of cultural rights in Vietnamese history before focusing on the post-colonial situation. Like Keyes (2008), he sees the official approach in Vietnam being essentially inclusive, although assimilationist. He notes that Vietnam's 1959 Constitution gave ethnic minorities a degree of autonomy as a reward for their support in the anti-colonial struggle. After reunification of North and South in 1975, however, while the new 1980 Constitution supported policies of equality and rights to culture and language, it gave priority to the maintenance of unity among all ethnic groups - the majority Kinh and the minorities. This subordination of cultural rights to national unity was reaffirmed in the 1992 Constitution.

A fourth publication on human rights in Vietnam, by Gammeltoft and Hernø (2000: 475), reinforces the point that the state - through the Ministry of Culture (previously Ministry of Culture and Information) - has had enormous power to decide which strand or representation of a cultural and ethnically diverse society is given legitimacy. The way the ethnic groups are identified is dubious, and many have, as Michaud and Turner (2006) point out, a transnational identity, either existing in locations subsequently bisected when colonial boundaries were imposed or ignoring these and moving backwards and forwards across boundary lines on a daily or seasonal basis. Gammeltoft and Hernø see the MOC's power waning in recent years as a result of increased internationalization. They argue that in contrast to the officially sanctioned set of Vietnamese values (social duties, collective obligations, hierarchically ordered social relations) which dominates the public discourse, it is now possible to see notions of rights in the Western sense (individual freedom, autonomy, more equal social relations) emerging as a 'hidden transcript'. It is true that since the Sixth Party Congress in 1986 when the doi moi (economic renovation) principles were adopted, Vietnam has rejoined the global financial and trading systems and become a major target for international tourism. It is also apparent that international tourism has been a powerful factor in encouraging the Vietnamese authorities to appreciate the hill-tribe people better - if largely as a resource to be exploited by the tourism industry.

Contact with the outside world has brought pop music, Western dress and modern hairstyles to the Tay Nguyen young generation. This further undermines the distinctive local culture and gives rise to concerns about the cultural impact of globalization. From a human rights perspective, the
young Tay Nguyen people as individuals should have the right to choose their own lifestyle. But what of the group identity and heritage? A major difficulty in many of the human rights instruments is that they are concerned more with individual than group, community or societal rights and, indeed, have often been criticized as enshrining an individualistic Western priority that is not culturally appropriate in many other parts of the world. Group rights have become better accommodated, however, since the landmark assertion in Article 27 of the 1966 ICCPR that:

In those States in which ethnic, religious or linguistic minorities exist persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess their own religion, or to use their own language.

In any case, it is questionable how free any of us are as individuals or groups, in the West or the non-West, to choose freely in the face of the massive taste-formation processes engineered by global companies in the music, fashion and media industries. This is precisely the kind of concern about the perceived negative impacts of globalization that led to UNESCO’s adoption in 2005 of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

**Economic rights**

The question arises how best to protect the cultural rights of ethnic minority groups. Is the commodification of their cultures through cultural tourism a problem that requires a policy response, or is it, on the contrary, part of the solution? The 1986 doi moi economic reforms have clearly improved life for the minorities in Vietnam. Many tribes traditionally suffered from malaria, iodine deficiency, tuberculosis and scabies, and their children were kept at home to work the land. The hill-tribe people remained largely illiterate in a country whose national literacy rate is claimed to have reached around 90 per cent under the communist regime by the 1980s. Since then the tyranny of remoteness has been reduced, giving better access to health care and education.

Clearly many members of ethnic groups see the paid employment in jobs often controlled by the Kinh as the way to move out of the poverty that surrounds most of the minorities. Under such circumstances, it is not ethically easy to argue for the maintenance of traditional ways of life. Indeed, some Asian countries have argued vehemently that to prevent development would be acting against their people’s basic human right to live free from poverty. This view was codified in The Bangkok Declaration, signed at an Asian regional meeting of the UN World Conference on Human Rights in 1993, which asserted that ‘all countries, large and small, have the right to
determine their political systems, control and freely utilize their resources, and freely pursue their economic, social and cultural development' (Article 6). While recognizing that human rights are universal in nature, the Declaration insists that they 'must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds' (Article 8). In short, the articulation of these views in the 1990s – often referred to as the 'Asian values debate' – took the exceptionalist position that conditions in Asia were different and that the right to protect cultural traditions had to be set aside until such time as standards of living had improved through economic development.

A question for heritage professionals, therefore, is how to respond to situations where local communities prefer to achieve higher standards of living by rejecting tradition and modernizing their cultures. Is it an appropriate response to try to shore up the traditional behaviours and skills that make up their intangible cultural heritage? In the Tay Nguyen case, does the programme to protect the gong-playing culture fly in the face of the rights of Tay Nguyen people to modernize and achieve better living standards? Or will it have the effect of turning a traditional set of skills into an economic resource that will help achieve these social goals?

In fact, since the opening up of Vietnam to the global economy and international tourism the market has taken on a primary role in shaping the country's 'new cultural heritage' (Logan 2009). Alongside the feudal Sino-Viet heritage that gives the Kinh their sense of pedigree and the twentieth-century legacy of the independence struggle under Ho Chi Minh and the socialists, the French cultural layer is now firmly included, thanks largely to French media and tourist interests as well as the efforts of the French government and investors to restore France-Vietnam links. It was slower for the ethnic minorities in the mountains to have their cultures recognized as an integral part of the national culture due to the national campaign to force the minorities to assimilate with the mainstream. But already tourism is having a significant impact on remote hill-tribe people in places such as Sapa in the north, an impact that needs to be carefully monitored to ensure that tourism does not destroy aspects of the hill-tribe culture that the people themselves see as critical identity supports.

Political rights

Vietnam is one of the world's few remaining communist countries and political rights, especially to form opposition parties, are severely restricted. Even now, according to Chen (2006: 54), Vietnam severely limits civil and political rights in order to maintain the one-party rule that is seen as essential to hold the country together and to prosper. Chen notes that religious organizations and activities are tightly regulated by law and that the media are
state owned, editors are subject to control and politically sensitive issues are not able to be discussed. Nevertheless, some environmental and heritage issues, such as the Golden Hanoi Hotel issue (Logan 2002, 2006), have generated public controversy and show that state power can be brought to a standstill by culture on occasions. Commentators such as Gillespie (2006) and Chen (2006) also believe the situation is improving. Chen argues (p. 509) that the future of human rights in Asia turns on shifting attitudes in China, Vietnam, Singapore and Malaysia and is 'cautiously optimistic'. Gillespie (pp. 452–7) sees in Vietnam today the state permitting an increasingly diverse range of associations to flourish, even if political associations remain tightly controlled; the state is using more and more rights-based arguments to balance the public good against individual civil, political and economic rights. Having adopted a mixed-market economy, it is indeed hard to see how further political liberalization in Vietnam will not occur, the ‘creeping pluralism’ mentioned previously.

In one sense the ethnic minorities are well served in terms of political rights: they are given preferential access under the electoral laws to approximately 15 per cent of the seats in the National Assembly and 10 per cent in the Vietnamese Communist Party’s central committee. This limited affirmative action began in the 1990s and the first ethnic minority representative became a member of the Communist Party’s Politburo and chairman of the National Assembly in 1992. This was more than tokenism according to many observers (*The Economist* 1992). However, the ethnic groups rarely vote as a bloc, according to Gillespie (2006: 476), and are more likely to represent regional party or national views than any cohesive ethnic perspective.

In other ways their political activities seem more restricted or at least carefully monitored. This follows from a long history of political instability in the upland plateaus and highlands of Vietnam and resistance by the hill-tribes to mainstream Kinh Vietnamese governments, whether of the capitalist South or communist North. In the early 1960s the Central Highlanders fought President Ngo Dinh Diem’s transplantation of northern Catholics onto their lands. In the 1970s and 1980s many fought with the French and Americans against the communists. They formed a small insurgency movement called FULRO (*Front Uni pour la Libération des Races Opprimées* or United Front for the Struggle of Oppressed Races). As a result they found themselves distrusted by the communist governments that were established in the North from 1955 and in unified Vietnam after 1975. The failed attempt by the Hanoi government to outlaw the hill-tribes’ traditional customs and language in the 1970s has been mentioned. Of course, official suspicion of the hill-tribes' motivations partly reflected a general anxiety about state independence, territorial integrity and social cohesion, all of which needs to be understood in the context of a nation that fought for generations against Chinese and Western colonial dominance.
Land use rights

In Tay Nguyen country, however, human rights issues remain highly sensitive, ostensibly as a result of a number of land rights-based clashes between the hill-tribes and the authorities in the last ten years. Elsewhere in this volume Jérémie Gilbert sees land competition as the common and greatest source of tension between dominant and minority groups wherever indigenous peoples exist because the heritage that is the basis of their identity and existence as distinctive groups is deeply embedded in land and therefore linked to the protection of traditional territories. In the central plateaus, land competition was certainly high among the key historical, demographic and political factors that had created a climate of intense frustration and seemed to dash, yet again, the ethnic minorities' longstanding hopes of gaining independence. They saw a steady stream of Kinh Viet immigrants into what used to be almost their exclusive home, a result both of government-sponsored resettlement schemes aimed at easing population pressure in lowland Vietnam and spontaneous migration since 1975 (Evans 1992).

The 1992 Constitution stipulates that the country belongs to all the people (Article 17) and the state manages the land (Article 18). State law supporting lowland immigration and agricultural investment in the highlands overrides customary law and 'strike[s] at the heart of minority cultural practices and communal relationships grounded in a swidden [shifting slash-and-burn] agricultural economy' (Gillespie 2006: 476). The hill-tribes often lack official titles to the large tracts of customary forest land that they occupied, but a national land-titling programme made problems worse when land use rights were issued to them because this converted land into an alienable commodity and, according to Gillespie, exposed the hill-tribes to unscrupulous lowland settlers and corrupt local officials and eventual dispossession in some localities. High illiteracy rates led to the perception that Hanoi discriminated against them in education, health and other social service provisions. In 1999–2000 plummeting coffee prices made worse the already high poverty levels, setting the scene for a political crisis.

In February 2001, several thousand members of Tay Nguyen minorities held a series of demonstrations calling for independence, return of ancestral lands and religious freedom — in defiance of the state constitution and law. An official reaction was to be expected and, indeed, the Vietnamese authorities responded with a show of force, deploying police and soldiers to disperse the protesters. Authorities arrested hundreds of highlanders, sometimes, according to the US-based Human Rights Watch (HRW 2002), using torture to elicit confessions and public statements of remorse. Travel was restricted in and out of the region and the 1,000 or so highlanders who fled across the national border were forcibly repatriated by Cambodia and punished by the Vietnamese authorities. The political conflict focused attention
on the land rights conflicts in the Central Highlands and has produced at least one scholarly analysis (see McElwee 2008). These disturbances broke out again in April 2004. The central plateaus were closely monitored and at times closed off to foreign diplomats, journalists and tourists (Asian Centre for Human Rights 2004).

**Religious rights**

The HRW points to generalized human rights violations, including the use of excessive punishment, violation of the right to freedom of assembly, and violation of the right to freedom of religion. The last-named is seen in the destruction and/or closure of churches and official pressure on Christians to abandon religion under threat of legal action or imprisonment. But this picture is complicated by the presence of foreign evangelical Protestant sects — an intervention that fans Hanoi suspicions of deliberate US-backed involvement. According to HRW (2006: 2), the Vietnamese government has persistently blamed the turmoil on agitation and manipulation of the local population by 'hostile foreign forces', meaning Montagnard groups in the US demanding religious freedom, land rights and a separate state, and using religion as a cover for separatist political activities. The Hanoi government's perception that this amounts to a threat to national unity is fuelled by the link between some independence advocates and former members of the now pro-US FULRO. Although FULRO's armed struggle effectively died out in 1992, many members at that time converted to Christianity (HRW 2002: 9) and some moved to the US where they formed a Montagnard Foundation Inc. Led by a Gia Rai-American, Kok Ksor, this organization has been among those accused by the Vietnamese Communist Party of organizing the February 2001 demonstrations.

Neither the HRW nor Amnesty International totally rejects Hanoi's interpretation. Indeed, HRW openly acknowledges that the recent upsurge in adherence to Protestant evangelical Christianity was at least one of the causes of conflict. There were American Protestant missionaries working in the area and there was clear evidence of Internet messages from Tay Nguyen minority groups based in the US in the days leading up to the outbreak of violence. Whether this amounted to a deliberate bid to unsettle the Hanoi government's hold on the area has yet to be clearly demonstrated. In any event, a crack-down on some foreign missionary activities followed, notably on the Dega Protestant sect ('Tin Lanh Dega in Ede language, literally 'Sons of the Mountains Good Word Church'). Dega Christianity is linked with Ksor's effort to build support for an independent 'Dega' homeland in 2000 (HRW 2002: 9), making it no surprise that the sect is officially banned. HRW estimated in 2002 that more than 250,000 (25 per cent) of the Tay Nguyen hill-tribe population were Christian, with the 'Dega Christians' being a significant sub-set. Another sect, the New Life Fellowship Vietnam, which had...
been started in the mid-1980s by an American couple, had its worship services stopped by the police in August 2005.

But as well as cracking down on some foreign missionary activities, several other missionaries have been recognized. This follows Hanoi's standard practice of dealing with religious groups. As with all organizations, the government bans independent religious associations and only recognizes those that have been approved by the Vietnamese Communist Party's Fatherland Front. However, by international comparison the Vietnamese state's attitude to religion has been relatively benign. Buddhist, Daoist and Confucian temples and pagodas and Christian churches were not closed down even during the height of ideological purity in the 1960s and 1970s, although the powerful Buddhists lost control over much property. The government insisted that it would recognize only one Buddhist organization and that it had the right to veto leadership appointments. There had been four government-sanctioned religions in Vietnam up until the Tay Nguyen crisis: the Vietnam Buddhist Church, Cao Dai, Hoa Hao and the Catholic Church. In April 2001 the Evangelical Church of Vietnam (ECVN) was added to the list. Established in 1911 and known in Vietnamese as Tinh Lanh ('Good News'), its branches had developed a strong Vietnamese leadership structure and more than 100,000 adherents. During 2005 a further 29 of the 1,200 ethnic minority churches closed in 2001 were registered by the government and re-opened, while local officials turned a blind eye to religious gatherings in numerous unregistered church houses (HRW 2006: 3–4).

In its June 2006 report on the Vietnamese national situation, HRW took the view that Vietnamese officials, recent reforms notwithstanding, were blurring the lines, not making the distinctions required by international law, and continuing to crack down on what should be protected political and religious expressions and behaviour. This is a violation of the basic human rights that Vietnam is obligated to uphold as a signatory to the International Covenant on Civil and Political Rights. (p. 2)

Amnesty International (2004) agreed, insisting that:

Whilst there is no doubt that overseas Montagnard groups have been linked to the public protests both in 2001 and April 2004, Amnesty International believes that to blame 'outsiders' for the unrest avoids addressing fundamental and underlying problems including land rights' pressures from internal migration and differences of religion and culture.

From the Vietnamese government's point of view, as Gillespie points out, 'State tolerance of religious activity is predicated ... on religions contribut-
ing to state socio-economic objectives. Religions must generate patriotic sentiments and uphold the "Great Unity" (pp. 459-60). Thus the authorities maintain that their treatment of religions has always been consistent with provisions in the *International Convention on Religious Freedom* that permits states to prohibit religious activities that infringe 'political security and social order'.

It is easy for political prejudices to come into play with regard to the right of sovereign nations with popularly elected governments to rule without external interference. But how does one judge this scenario in terms of cultural rights? Should the foreign missionaries be stopped because they are undermining the traditional culture of the ethnic minority group? Or does that infringe the minority group’s and the individual’s right to choose whatever religion they want? HRW claims that recent reforms liberalizing religious activity in the Tay Nguyen region are in response to US designation of Vietnam in 2004 as 'Country of Particular Concern' for religious freedom violations. The US does not officially acknowledge involvement in the missionary activities in Vietnam, in the same way that it is not seen to back the Fa Lun Gong in China. But adopting Nye’s concept of ‘soft power’ (2004), it can be argued that the US seeks to exert influence by setting the discourse, using human rights arguments to undercut the Vietnamese regime’s status in the eyes of the world. Such tactics fit the American state’s continuing attack on socialist states and its apparent inability to accept its loss in the Vietnam War. One conclusion that might be drawn is that this is primarily about power in the global setting, and only secondarily about human rights – and even further down the track about cultural diversity and cultural heritage.

**Rights to self-determination**

This chapter has sought to highlight the various conflicting rights claims made by or involving the Tay Nguyen people. In this context, what does Vietnam’s inscription of the gong-playing culture onto the UNESCO intangible heritage list signify? The Vietnamese government’s action seems paradoxical but most likely reflects a carefully thought-out pragmatic position. Bolstering traditional elements of Tay Nguyen minority culture seems at first glance to run against the government’s worry that the hill-tribes’ desire to differentiate themselves from the majority population threatens national unity. However, it may show a realization that the recent political unrest is linked to the lack of economic and educational opportunities and that certain cultural practices, such as gong-playing, can be cultivated as economic resources to draw revenue into the Tay Nguyen region through increased cultural tourism. If this is the case, then the tourism industry is again clearly at the forefront of the re-valorization of Vietnam’s minority cultures as it has been among the ethnic minority groups around Sapa in the north.
Other tourism projects, including the development of ecomuseums in Daklak Province, are being promoted by the central and provincial governments. But by promoting the gongs through UNESCO, the government can be seen to be working at the highest international level to support the local traditions and, at the same time, helping to raise living standards. This may have the effect of placating local separatist voices and of quietly drawing the Tay Nguyen minority into the mainstream through increasing their economic links to the national and international tourism industries. This does not appear to mean that the general assimilationist approach has been abandoned, but merely that there has been some further softening in that approach. Of course, the recognition by the world community of the high level of significance of the Tay Nguyen gong-playing also impacts upon the attitudes of mainstream Vietnamese. It is therefore likely that nominating the gong-playing culture to UNESCO is seen as a way of using cultural heritage as a focus of national Vietnamese pride and nation-state formation more generally.

But perhaps this is attributing a more strategic approach on the part of the central government than has really existed. Nominating the gongs may simply have been the result of the normal activities of the responsible government department, the Ministry of Culture (now reconfigured as the Ministry of Culture, Sport and Tourism), and the Vietnamese National Commission for UNESCO. It was their responsibility to propose heritage items to UNESCO and, as mentioned, the gong-playing culture was seen to have the strongest case. Perhaps the national government in Hanoi, the provincial authorities and the gong-players themselves had little involvement in the decision-making process. While further investigation is required to clarify this point, such a conclusion would be in line with Porter’s view (1993) that Vietnam is governed by a system of bureaucratic socialism in which the bureaucrats made and implemented decisions on behalf of the one-party state and the general public had little role to play or influence.

In any event, the gong-playing culture was successfully nominated and the UNESCO Action Plan is under way. An inaugural gong culture festival was held in November 2007 in Buon Me Thuot city. Aimed at ‘honouring the gong culture and improving the community’s awareness of the need to preserve this valuable culture’, it attracted 25 gong performance groups, including one from Laos and another from the Republic of Korea (My An 2008: 37). Meanwhile, the Viet Nam Folk Art Association, a group of dedicated folklore experts, ethnomusicologists and culture bureaucrats under the leadership of Professor To Ngoc Thanh, has been working on a ‘Vision 2010’ programme to build up a network of gong-players and supporters (Viet Nam News 2005). Membership now stands at almost 1,000 but, since they are mostly between 60 and 70 years old, the sustainability of the group is in question. What will be the worth of Tay Nguyen’s gong-playing if the living context is lost? Performances may be sound- or video-recorded, the
instruments collected in museums, and the skills handed down to an elite group of players trained in specially funded schools. A poor alternative is for gong-playing to become a show for tourists, exotic but ultimately empty.

Conflicting rights claims make the task of the heritage professional exceedingly difficult. How do we respond as professionals to instances where various claims to cultural practices based on human rights are in conflict with each other? How do we deal in practice with situations where cultural heritage is used by powerful actors, both domestic and external, to obtain political goals that are essentially unrelated to heritage conservation? Our personal world view inevitably comes into play in setting the parameters for how we intervene as professionals. But, if we have the freedom of choosing how to act, so too should the individuals whose heritage we are considering. Not only is the ability to maintain one’s culture a form of human rights, but more fundamental is the right to determine one’s own life circumstances. In Tay Nguyen country we have clearly seen how people, as groups and individuals, want secure food and water supplies and improved housing and hygiene. Abandoning, modifying or commodifying traditional culture may be the price to be paid for winning improved standards of living. Let them decide for themselves.

**Bibliography**


and Cultural Representations in Asia, Noralic Institute of Asian Studies 'Democracy in Asia' Series, No. 6, Richmond, Surrey: Curzon Press, pp. 159–77.


William Logan is UNESCO Professor of Heritage and Urbanism, and Director, Cultural Heritage Centre for Asia and the Pacific, Deakin University. His research interests include world heritage, Asian heritage, heritage and human rights, and heritage theory. His books include: Hanoi: Biography of a City (2000), The Disappearing Asian City (2003), Vientiane: Transformation of a Lao Landscape (2007, co-author) and Places of Pain and Shame (2009, co-author).