

Violations of Civil and Political Rights in Vietnam



Alternative Report to the United Nations Human Rights Committee
on the Third Periodic Report of Vietnam
on Implementation of the
International Covenant on Civil and Political Rights
125th Session, Geneva, 11 - 12th March 2019



On the cover is a cartoon by Hoàng Vũ
from the state-controlled Vietnamese press (*Văn Nghệ*, 5.11.1988)
during the brief period of “opening” when the Vietnamese Communist Party
encouraged freedom of creativity and freedom to criticize (1986 – 1989).

VIETNAM COMMITTEE ON HUMAN RIGHTS

48 rue Parmentier – 94450 Limeil Brévannes (France) ☎ (33 1) 45 98 30 85 – Fax (33 1) 45 98 32 61

E-mail: vietnam.committee@gmail.com - Website: <http://queme.org>

Twitter : @vchr2016 – Facebook : <https://www.facebook.com/queme.net>

Vietnam Committee on Human Rights (VCHR) is a non-profit organization founded in Paris in October 1975. Its aims are to promote internationally-recognized human rights in Vietnam, mobilize support for victims of human rights abuses and work for the institutional protection of human rights and democratic freedoms in Vietnam. VCHR President is Vo Van Ai, Vice-President is Penelope Faulkner and the Executive Secretary is Vo Tran Nhat.

**Submission to the United Nations Human Rights Committee
on the Third Periodic Report of Vietnam
125th Session, March 2019**

Introduction

The Vietnam Committee on Human Rights (VCHR), a non-governmental organization founded in 1975 to monitor and promote the observance of internationally-recognized human rights in Vietnam, welcomes this opportunity to contribute information on Vietnam's third periodic report on implementation of the ICCPR.

VCHR regrets, however, that this report is 14 years overdue. It is only the third report submitted by Vietnam in 37 years, since it acceded to the ICCPR in 1982. It covers the period from 2002 to 2017, making it extremely difficult for UN experts and other stakeholders to effectively evaluate implementation of the Covenant in Vietnam and make relevant recommendations for the government to improve protection of its citizens' human rights.

In fact, the human rights situation in Vietnam has gone from bad to worse, with a marked deterioration since the Communist Party of Vietnam (CPV) appointed a new leadership at its 12th Congress in January 2016. The elected President, Trần Đại Quang, a former Minister of Public Security, announced that his government's immediate priority would be to combat "sabotage" and "wrong and distorted allegations from hostile and reactionary forces" and mobilize the military, police, and public security forces to fight against critics of the party and government.¹

Since then, the authorities have pursued a ruthless crackdown on all forms of peaceful dissent. Prison terms of up to 20 years on charges of "subversion" (Article 109) – an offence that has only occasionally been invoked since the 1990s – have been handed down regularly on bloggers, human rights defenders, journalists and pro-democracy activists who advocate the rights enshrined in the ICCPR. In fact, convictions under Article 109 almost tripled in 2018 in comparison with 2017. Harassments, intimidation and physical assaults of civil society activists are also on the rise, and restrictive legislation has been adopted to silence perceived critics and criminalize religious and political dissent.

In this context, VCHR is especially disturbed by comments on the impacts of "terrorism" in Vietnam's report (Para. 29), by the insertion of a new capital crime in the 2015 Criminal Code on "terrorism against the state", and by Vietnamese Deputy Foreign Minister Lê Hoài Trung's statement at the UPR on 22nd January on "**new challenges facing Vietnam: terrorism, anarchy and abuse of religions**". Since there is little evidence of violent extremism or religious fundamentalism in Vietnam², VCHR fears that this language may announce a new and harsher phase in Vietnam's assault on freedom of expression, using the pretext of terrorism to stifle peaceful, legitimate dissent.

In this submission, VCHR will not attempt to cover the human rights situation as a whole, but simply highlight key concerns and respond to some of Vietnam's replies to the List of Issues (LOI) raised by the Human Rights Committee.

¹ "Re-elected President Tran Dai Quang gives media interview", 25 July 2016, Vietnam Breaking news.

² At Vietnam's UPR in January 2019, the representative of the Vietnamese Government Committee for Religious Affairs said that "there is no war or conflict based on religion in Vietnam."

Article 2 (Implementation of the Covenant at the National Level)

Domestic legislation inconsistent with ICCPR obligations

The Constitution: Human rights are guaranteed in the Vietnamese Constitution. However, amendments to the Constitution adopted in November 2013 have significantly weakened human rights protection. Article 15 specifies that “the practice of human rights and citizen’s rights must not infringe upon national interests” and Article 14 (2) provides restrictions for vaguely defined reasons including “national security” that are incompatible with the limits set out under ICCPR.

In its response to the Human Rights Committee’s List of Issues (Par. 1), Vietnam stated that the Covenant has primacy over national law “with the exception of the Constitution”. This means that rights enshrined in the Covenant may be restricted if they are deemed to “infringe upon the interests of the state” (Constitution, Article 15). This is inconsistent with Vietnam’s obligations as a state party to the ICCPR.

Domestic legislation: The enjoyment of human rights is further restricted by extensive domestic legislation that incorporates vaguely worded national security provisions, or prohibits acts deemed to “abuse” human rights to “infringe on state interests and policies”.

In its report (Par. 16), Vietnam referred to 81 recent laws and ordinances it had amended or adopted to ensure the protection of human rights over the past three years (Vietnam cited 96 such laws at its UPR in Geneva ³). These include the 2015 Criminal Code, the 2015 Criminal Procedures Code, the 2016 Law on Access to Information, the 2016 Law on Belief and Religion, the 2016 amended Press Law and the 2018 Cyber Security Law (*see section on Article 19*).

In many cases, however, these new or amended laws have not enhanced human rights protection, but increased restrictions on the exercise of human rights, thus enabling Vietnam to claim that “there are no prisoners of conscience in Vietnam, only people who violate the law”.

The 2015 Criminal Code, which came into effect in January 2018, severely limits the scope of rights guaranteed in the Covenant. Despite recommendations made by the Human Rights Committee in 2002 and pledges made at two UPR cycles to amend or repeal “national security” provisions, in 2015 Vietnam adopted an amended Criminal Code which merely changed the numbers, but not the content of these crimes.

In fact, certain amendments to the Criminal Code impose even harsher limits on the exercise of human rights. Article 117 (formerly 88 on “conducting propaganda against the Socialist Republic of Vietnam”) now criminalizes “making, storing and distributing information, documents, materials and items against the SRV,” a clause that is open to wider interpretation. One new national security crime has been added, that of “terrorism against the state” (Article 113) which carries the death penalty, as well as extremely vague provisions on the “preparation” of, or intent to commit a crime (Articles 109, 113, 116 and 117), punishable by up to five years in prison.

Article 19 of the Criminal Code requires lawyers to reveal information about their clients on cases of “national security”, or bear criminal responsibility. This is a step backward from the 1999 Criminal Code ⁴ because it breaches the principle of lawyer/client confidentiality, and contradicts Article 73 of the 2015 amended Criminal Procedures Code which states that lawyers should not reveal any such information about their clients. During the debate on the draft law, the Vietnamese Bar Association urged the National Assembly to remove this clause, without avail.

³ National Report of Vietnam on the third cycle of UPR, November 2018, A/HRC/WG.6/32/VNM/1

⁴ “Petition calls for abrogation of clause forcing lawyers to denounce their clients”, Tuoi Tre 8.6.2017, <http://tuoitre.vn/tin/phap-luat/20170608/kien-nghi-bo-dieu-luat-buoc-luat-su-to-giac-than-chu/1328145.html>.

In 2017, the UN issued recommendations to revise provisions in the Criminal Procedures Code and the Criminal Code which appeared to be incompatible with Vietnam's obligations under the ICCPR, notably articles 109, 116, 117, 118 and 331.⁵

Restrictions on human rights are further reinforced by **Communist Party of Vietnam (CPV) directives**. In November 2017, the CPV issued Regulation 102 which states that any party member who advocates for "the separation of powers," "independent civil society," or "multi-party democracy" will be immediately expelled. In Vietnam's one-party state, expulsion from the CPV is a serious sanction. Party membership opens doors to job opportunities, connections, influence, access to university, retirement pay and a range of financial privileges and prerogatives.

National Security Provisions: In its report, Vietnam states that the national security provisions in Vietnamese legislation are "fully in line with the Covenant" (Par.2). In reality, many citizens condemned to harsh prison sentences for alleged national security breaches were engaged in legitimate, peaceful human rights advocacy.

The case of the "Brotherhood of Democracy" is a salient example. Six members of this organization, which describes itself as "an independent civil society organization that promotes human rights through online actions and coordinates the efforts of various pro-democracy actors in the country" were condemned to extremely harsh prison sentences (from nine to 15 years) on 5th April 2018 on charges of "attempting to overthrow the people's administration". None were accused of violent activities. Responding to questions from the international media, the Foreign Ministry spokesperson explained why these non-violent activists were charged with subversion":

"The defendants took advantage of fighting for "democracy, human rights" and "civil society" to conceal their purposes. They connected with domestic and foreign organizations and illegal organizations in Vietnam to seek overseas support and financial aid and conduct propaganda against the State, aiming that when their force was strong enough and the time was right, they would publicly confront the administration and change the political regime in Vietnam so as to build a regime of "pluralism, multiparty" and "separation of powers" and topple the people's administration".⁶

In the government's view, advocating pluralism and the separation of powers challenges the political monopoly of the one-Party state, and is therefore a threat to national security.

Moreover, the **definition of acts violating national security** in the 2004 Law on National Security (32/2004/QH11) is overly broad. They include "organizing, operating, colluding with, instigating, controlling, inciting, buying off, deceiving or dragging other persons to oppose the people's administration, abolish the leadership role of the Communist Party of Vietnam, divide the country, disrupt the national unity bloc" (Article 13.1). This definition is inconsistent with the Johannesburg Principles and the right to freedom of expression defined in the ICCPR.

Seeking Remedy for Violations of Human Rights: Given the Constitutional provisions that enshrine the Communist Party's political monopoly over state institutions (Article 4), the existence of a single, state-controlled trade union, and the absence of a national human rights institution, a free press and independent human rights NGOs, Vietnamese citizens are deprived of mechanisms which

⁵ UN Recommendations on the 2015 Penal Code and Criminal Procedural Code of Vietnam, 17 May 2017 http://www.un.org.vn/en/publications/doc_details/538-un-recommendations-on-the-2015-penal-code-and-criminal-procedural-code-of-viet-nam.html

⁶ <https://en.vietnamplus.vn/vietnam-affirms-consistent-policy-of-ensuring-human-rights/129107.vnp>.

would allow them to seek remedy for violations of their human rights, in violation of Article 2(3) of the ICCPR.

Human Rights Education: Raising awareness of the Covenant through “incorporation of human rights education into nation-wide education system” is said to be a priority for Vietnam (Para. 3). It is disturbing, however, that the Ministry of Public Security (the national police force) and the Ministry of Defence are in charge of human rights training institutions, materials and curricula.

VCHR is also concerned that training materials may be inconsistent with the universality of human rights. Manuals currently in use require teachers to explain that:

“Given differences in political regime, development level, cultural value and historical background, approaches to human rights might vary from country to country. Vietnam's position is that no country has the right to use human rights as a means or pretext to interfere into another country's internal affairs, create confrontation and political pressures, even use force or impose conditionalities in economic and trade relations with others.”

If government education reflects this position, future generations of Vietnamese will learn about human rights from a perspective close to the “Asian values” argument that was rejected by the international community over three decades ago⁷.

Article 6 (The Right to Life)

Use of the death penalty in breach of ICCPR

Vietnam retains the death penalty for at least seven offenses that cannot be considered as “the most serious crimes” under Article 6 (2) of the ICCPR. Following the entry into force of the amended Criminal Code in January 2018, 18 offenses remain punishable by death.⁸ They include drug-related offenses, such as drug production and trade (Articles 250 and 251); economic crimes, such as embezzlement and receiving bribes (Article 353 and 354); and national security crimes including as “activities aiming to overthrow the people’s administration” (Article 109), “espionage” (Article 110) and “terrorist activities aimed at opposing the people’s administration” (Article 113).

The crime of espionage sanctions non-political acts such as “gathering or supplying information and other materials [i.e. materials which are not necessarily State secrets, note VCHR] for use by foreign countries against the Socialist Republic of Vietnam”. This means that dissidents and peaceful critics may be condemned to death simply for sending emails or circulating opposition views overseas.

Since 2004, data on the death penalty has been classified as “state secrets.” However, in March 2017, for the very first time, the Ministry of Public Security (MPS) posted a report online (05/BC-BCA-C81) that gave a rare overview of the use of the death penalty in Vietnam between 2011 and 2016. According to the report, 1,134 prisoners were detained on death row during that period, and 429 prisoners had been executed by lethal injection. As of June 2016, 681 prisoners were awaiting execution, 80 had been granted a stay of execution for retrial because of wrongful convictions, and 36 prisoners had died while on death row between 2011 and 2016⁹. To cope with the large number

⁷ *Some facts on Legislation regarding Human Rights: a teachers’ manual for classes on civic education and law*, December 2012, Communications Department for Legal Education, Ministry of Justice, Hanoi.

⁸ VCHR, *The Death Penalty in Vietnam*, June 2016, available at: <http://queme.org/app/uploads/2016/06/The-Death-Penalty-in-Vietnam-VCHR-2016.pdf>

⁹ *The Death Penalty in Vietnam*, VCHR – Report presented at the 6th World Congress against the Death Penalty, Oslo, June 2016 - <http://queme.org/app/uploads/2016/06/The-Death-Penalty-in-Vietnam-VCHR-2016.pdf>

of executions, the report said that five new execution compounds were being built to supplement the five currently operational in Hanoi, Ho Chi Minh City, Nghệ An, Sơn La and Đắk Lắk, and Security officials were being rapidly trained to administer lethal injections.

Conditions on Vietnam's death row, which is reportedly the 12th largest in the world, are particularly inhumane. The number high number of deaths revealed by the MPS confirms reports of a growing suicide rate¹⁰. Prisoners are not informed of their execution in advance, and many prefer to die rather than live with the terror of waiting for an unknown execution day. Nguyễn Tiến Công, 35, committed suicide on death row in June 2013 in Haiphong. The MPS report also noted that many prisons do not have special quarters for prisoners condemned to death, which causes "complications in the management of prisoners".



An execution compound in Vietnam

Vietnam informed the Human Rights Committee that it has chosen execution by lethal injection instead of the firing squad as a "more humane execution" (par. 69). Because of an EU ban on exporting lethal injections, Vietnam now uses "local poisons". The names of these substances have not been disclosed, and there are concerns about their effects. The official media reported that the first person to be executed with these injections in 2013 took two hours to die.

At Vietnam's UPR in Geneva in January 2019¹¹, a representative of the Ministry of Justice said that Vietnam would continue to classify death penalty data as "state secrets". However, she also said that executions are "very public." She did not explain why executions should be public, yet information on the number of executions remains secret.

Article 7 - Prohibition of torture or other cruel, inhuman or degrading treatment or punishment

Torture and deaths in custody; Human rights defenders subjected to aggression

VCHR has extensive evidence of torture and ill-treatment of prisoners of conscience in detention; deaths in police custody resulting from torture; and physical attacks against human rights defenders by plainclothes security agents.

Blogger Nguyễn Ngọc Như Quỳnh aka "Mẹ Năm" researched and compiled a list of 31 cases of torture and deaths in police custody based on reports in the official press. Police used this as evidence to arrest her for "spreading anti-state propaganda" under Article 117 of the 2015 Criminal Code. On 29 June 2017, she was sentenced to 10 years in prison.

¹⁰ Delphine Lourteau, Cornell University, Thanh Nien News, "Is Vietnam ready to abolish the death penalty", 22.1.2015, <http://www.thanhniennews.com/politics/is-vietnam-ready-to-abolish-death-penalty-37916.html>

¹¹ See webcam of Vietnam UPR, 22.1.2019 <http://webtv.un.org/watch/viet-nam-review-32nd-session-of-universal-periodic-review/5992471092001/>

According to the MPS report cited above, from 2011-2016, the remains or ashes of 2,812 prisoners were approved for collection by family members, suggesting a high rate of deaths in custody for a prison population that the government says numbers less than 150,000. Reports of deaths from torture in custody are widespread. In October 2015, 17-year old Đỗ Đăng Dư fell into a coma and died in police custody of serious head and leg wounds. Police initially said he had fallen in the bathroom, then that he had been attacked by a prison inmate. The following month, two of his lawyers were assaulted by masked men and a Police officer¹². Hoa Hao Buddhist Nguyễn Hữu Tấn died in Police custody in Vinh Long province only hours after he was arrested for “propaganda against the state”. Police said he had committed suicide by cutting his own throat with a letter opener.¹³

In its Concluding Observations on Vietnam’s first periodic report in December 2018¹⁴, the UN Committee on Torture raised this and several other cases of deaths in custody, requiring Vietnam to report on them by 7th December 2019 (*see also section on Article 18, Freedom of Religion or Belief*).



A Policeman kicks Lê Hữu Quốc at the Police station in Túy Hoà city, Phú Yên province in January 2019. He was called in as a witness in an altercation between two other men.

In its responses to the Human Rights Committee’s LOI (Par. 38), Vietnam stated that reports of **torture or ill-treatment in prisons by fellow inmates** acting at the instigation or with the consent of Police officials are “ungrounded”. In 2016, however, one year after Vietnam became a state party to the UN Convention against Torture, Amnesty International published a report with extensive evidence of such ill treatment.¹⁵ Former prisoners of conscience said they were “cramped into small cells, where other prisoners known as “antennae” were believed to have colluded with prison authorities and incited to attack them”. In June 2017, blogger Mẹ Năm Nguyễn Ngọc Như Quỳnh said she was subjected to “mental torture” day and night by a fellow inmate, and activist Trần Thị Nga told her husband in August 2018 that she had been brutally beaten and received a death threats from another inmate in Gia Trung prison, central Vietnam. Both women believe the inmates were incited by the prison authorities, who took no action to remedy theirsituation.

Assaults against human rights defenders: Physical assaults are often used as a warning to activists to cease their human rights advocacy. In February 2017, Pastor Nguyễn Trung Tôn was kidnapped by government-hired thugs, brutally beaten, and abandoned in a remote forest in Quang Binh Province. He continued his human rights advocacy and was

subsequently arrested in July 2017. In 2014, land rights activist Trần Thị Nga was beaten with metal bars by five plainclothes security agents, resulting in serious injuries. Similar assaults continued in 2018. In

¹² <https://www.nytimes.com/2017/08/12/world/asia/vietnam-prison-abuses.html>

¹³ Open Letter to the Minister of Public Security by 30 civil society organizations, <https://www.csw.org.uk/2017/07/03/press/3606/article.htm>

¹⁴ Concluding Observations of the UN Committee against Torture, CAT/C/VNM/1, 28 December 2018.

¹⁵ <https://www.amnesty.org/en/latest/news/2016/07/the-secretive-world-of-viet-nam-torturous-prisons/>

June and July, Đỗ Thị Minh Hạnh, a labour rights activist and former political prisoner was subjected to daily attacks in Lâm Đồng province. Unidentified aggressors threatened her, seriously injured her colleagues, and pelted her father's house with rocks and incendiary devices. Local police repeatedly failed to respond to calls for help or investigate the issue. On 15th August, Police arrested writer Phạm Đoàn Trang, Nguyễn Tín, and Nguyễn Đăng Cao Đại at a concert in a tea-house in Ho Chi Minh City and beat them during interrogations. Later in August, police in Khánh Hòa province detained activist Ngô Thanh Tú and beat him repeatedly. In September, Huỳnh Cồng Thuận was beaten by plain-clothed agents in Ho Chi Minh City, and unknown thugs broke the arm of former political prisoner Trương Văn Kim in an attack in Lâm Đồng.

In its responses to the Human Rights Committee's LOI, Vietnam said there was "no such thing" as plain-clothed security officers beating human rights defenders (Par. 89). In many cases, however, human rights defenders who had been subjected to beatings recognized their aggressors as officers who had been present during previous Police interrogations.¹⁶

Police brutality against citizens in custody: Incidents of Police brutality against ordinary citizens on Police premises have been reported in the State-controlled press. On 30th January 2019, one of Vietnam's largest newspapers *Tuổi Trẻ (Youth)* published a report and photo of a Policeman kicking and hitting a man in a Police station in Túy Hoà city, Phú Yên province. The man, Lê Hữu Quốc, had been called in as a witness in an altercation between two other men.

Article 10 (Humane Treatment of Persons Deprived of their Liberty)

Detention conditions far below international minimum standards

Political prisoners are frequently detained incommunicado during their pre-trial detention, which may last two years or more. After being convicted and sentenced, many are transferred to prisons far away from their homes, which effectively deprives them of visits from their families. In 2018 alone, this has been the case for prisoners of conscience Nguyễn Ngọc Như Quỳnh and Trần Thị Nga (both mothers of young children), Nguyễn Văn Hoá, Nguyễn Văn Oai, and Phan Kim Khánh.

Political prisoners are frequently denied medical treatment. Đinh Nguyễn Kha, serving a six-year prison term for distributing leaflets critical of Vietnam's response to China's territorial claims in the region, was denied follow-up treatment after an operation to remove a stomach tumor. Hoa Hao Buddhist Trần Thị Thúy, released in August 2018, was denied treatment for serious medical conditions during her 8-year prison sentence in Anh Phuoc detention centre in Binh Duong province.

In its response to the Human Rights Committee's LOI (Par. 38), the Vietnamese government stated that "*there is no such "prisoner of conscience"*" and that all prisoners are treated equally. In fact, former political prisoners detained under national security charges for the expression of their religious or political convictions report that they were specifically singled out as political prisoners. They were subjected to a detention regime with harsher conditions than common criminals (i.e. with fewer family visits, smaller food rations, and greater surveillance). In many detention centres, they were forced to wear clothes and use utensils stamped with the letters CT (Chính Trị - "political"). They also suffered frequent punishments, including long periods in solitary confinement without any light or ventilation, with their feet in shackles.

¹⁶ <https://www.hrw.org/report/2017/06/18/no-country-human-rights-activists/assaults-bloggers-and-democracy-campaigners>; <https://queme.org/en/shrinking-spaces-assessment-human-rights-situation-in-vietnam>

Article 12 (The Right to Freedom of Movement)

Scores of activists placed under house arrest, hit by travel bans, or forced into exile; international NGOs banned entry

The Vietnamese government has regularly restricted the freedom of movement of human rights defenders, activists, and government critics, in violation of Article 12 of the ICCPR. Authorities have routinely placed them under house arrest to prevent them from participating in human rights training or meeting with foreign government officials and representatives from the European Union (EU) and the United Nations (UN).

Authorities have frequently invoked **Decree 136, adopted in July 2007**, to prevent activists and human rights defenders from travelling abroad to participate in training, conferences, and UN-related advocacy events. Decree 136 empowers authorities to bar Vietnamese citizens from leaving Vietnam for “reasons to protect national security, social order, and safety.” Since January 2016, over 110 Vietnamese human rights defenders and activists had faced international travel restrictions as a result of the application of Decree 136. Their passports were confiscated, applications for passports rejected or unduly delayed, or they were physically prevented from boarding flights. In June 2018, labour activist Đỗ Thị Minh Hạnh was prevented from leaving Vietnam to go to Germany. In August, the police arbitrarily denied issuance of a passport to former political prisoner Lê Công Định.

In many cases, authorities also harassed and detained Vietnamese activists and government critics **upon their return to Vietnam following their participation in training, conferences, and UN-related advocacy events**. The UN has acknowledged at least one case of reprisal against a Vietnamese activist for travelling abroad to cooperate with UN human rights monitoring mechanisms.¹⁷

Not only Vietnamese activists, but **members of international human rights NGOs have suffered harassments and been prevented from travelling to Vietnam**. In August 2018, FIDH Secretary General Debbie Stothard and Amnesty International’s Senior Director of Global Operations Minar Pimple were banned from attending the ASEAN World Economic Forum in Hanoi, at which they had both been invited to speak. The Vietnamese authorities refused to grant an entry visa to Mr. Pimple, and detained Ms Stothard, a Malaysian citizen, overnight at Phu Bai Airport before expelling her from the country the following day.

VCHR has firsthand experience of travel restrictions imposed by Vietnam. In September 2010, when Vietnam held the Chair of ASEAN, VCHR and FIDH scheduled a press conference at the Foreign Correspondents’ Club in Bangkok to launch a report on the human rights situation in Vietnam. Two days before departure, the Thai Embassy in Paris cancelled the visa they had issued to VCHR President Vo Van Ai. They explained that they were acting on the request of the Vietnamese Foreign Ministry. VCHR Vice-President Penelope Faulkner, a UK citizen who did not need a visa, was intercepted at Charles de Gaulle airport in Paris and refused boarding access. The air company told her they had received instructions to prevent her from boarding because of her “human rights activities”. This travel ban is particularly disturbing because it shows that Vietnam can impose restrictions beyond its own borders. VCHR was not seeking to travel to Vietnam, but to a neighbouring ASEAN country.

¹⁷ UN Human Rights Council, 27th session, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, 27 August 2014, UN Doc. A/HRC/27/3 Para. 40

Over the past few years, the government has increasingly **forced political prisoners into exile** by releasing them early from prison on condition they immediately leave Vietnam. Since Vietnam's second UPR, at least eight high-profile religious and political dissidents have been released on condition that they leave the country. They have not been amnestied of their sentences, and must return to prison if they ever go back to Vietnam. In May 2017, a dissident blogger with dual French-Vietnamese nationality was deported to France after being stripped of his Vietnamese citizenship. This is incompatible with the right to freedom of movement enshrined in Article 12 of the ICCPR. Prisoners given early release should be amnestied of their sentences and allowed to freely choose where they wish to live.

Article 14 (The Right to Equality before Courts and Tribunals, and the Right to a Fair Trial)

Harsh sentences, unfair trials, and systematic denial of legal defense

In Vietnam, courts are not independent and trials are routinely unfair. Justice is administered through the People's Courts, the People's Office of Supervision and Control (People's Procuracy), and Military Tribunals, which have a constitutional mandate to "safeguard the socialist regime and the interests of the state" (Article 102.3).

In recent years, Vietnam has intensified arbitrary arrests and convictions of human rights defenders, bloggers, and civil society activists [See below, *Article 19 - Dissent heavily repressed amid tighter internet controls*]. Their trials consistently fell short of international human rights standards, in violation of Article 14 of the ICCPR.

In many cases, defendants were not allowed to call their witnesses. They were regularly denied access to defense counsel during the investigation, and had no opportunity to prepare their defense. The right to the presumption of innocence has been routinely undermined by smear campaigns in state-controlled media. Many trials are held *in camera*, especially trials concerning "national security" offenses (Article 25 of the Criminal Code). For example, medical doctor Hồ Văn Hải was sentenced to four years in prison during a secret closed-door trial in Ho Chi Minh City on 1 February 2018 on charges of "spreading anti-state propaganda" (Article 117 of the Criminal Code) for denouncing the toxic effects of the Formosa industrial waste spill. His family learned of the trial in the official press.

Lengthy pre-trial detention remains a typical feature of prosecutions involving activists, human rights defenders, and government critics. The 2015 Criminal Procedures Code permits virtually unlimited pre-trial detention for "special cases of extremely severe crimes or breaches of national security." In such cases, after an initial period of four months (which may be extended three times), the head of the Supreme People's Procuracy has the authority to decide to maintain detention "until the investigation closes" (Articles 172 and 173). Under Article 74 of the Code, persons accused of "national security" crimes may be detained incommunicado during the whole investigation period to "keep the secrets of the investigation."

The Criminal Code also provides for "**Additional Punishment**" for persons imprisoned under Chapter XIII on National Security Crimes (article 122): "A person who commits an offence specified in this Chapter may have some of his/her citizenship rights deprived of, be put under mandatory supervision, be prohibited from residence for 01 - 05 years, or have all or part of his/her property confiscated". Article 43 of the Code defines this as "Probationary Detention" (*Quản chế*). Human rights defenders and civil society activists are invariably condemned to several years of probationary

detention after their release from prison. This is tantamount to a second punishment for the same crime, in violation of Article 14.7 of the ICCPR.

According to a judge in Ho Chi Minh City who spoke to members of the local legal community on condition of anonymity, many judgments are decided in advance by the Ministry of Public Security, People's Procuracy, and the court. If they disagree on the sentence, pre-trial detention is prolonged until they can reach an agreement.¹⁸ The trial of human rights lawyer Nguyễn Văn Đài and other members of the "Brotherhood of Democracy" in April 2018 illustrates this trend. Đài and his colleague Lê Thu Hà spent 26 months in pre-trial detention, including many months in solitary confinement between their arrest in December 2015 and their trial in April 2018. The trial, which resulted in prison sentences of up to 15 years, lasted only one day. The People's Procuracy did not reply to questions asked by the defendants' lawyers and produced no substantial evidence to justify the harsh sentences.¹⁹

The 2013 Constitution and the 2015 Criminal Procedures Code have introduced "adversarial principles during trials". This is considered as a reform, but it is currently inapplicable in Vietnam because there are no rules or procedures to ensure that these rights are fully enforced and respected. Lack of independence of the judiciary is a grave concern. Many recommendations received by Vietnam at its 2014 and 2019 UPR reviews concerned improvements to the criminal justice system.

Article 18 (The Right to Freedom of Religion or Belief)

Registration, recognition, and repression: Religions under state control

Article 24 of the 2013 Vietnamese Constitution guarantees freedom of religion or belief, but also states that 'no one may violate freedom of belief and religion, nor take advantage of a belief or religion in order to violate the law'. This vague language, coupled with provisions in the Criminal Code that criminalize "sowing division between religion followers and non-followers, between religions, between religion followers and people's government or socio-political organizations" (Article 116c) virtually gives the authorities *carte blanche* to arbitrarily arrest and detain religious followers engaged in legitimate, peaceful activities. VCHR has received reports of violations against all the major religious communities, including Buddhists, Protestants, Catholics, Cao Dai, Hoa Hao Buddhists and Muslims.

Vietnam's very first Law on Belief and Religion, which came into effect in January 2018, reinforces the state management of religions and legalizes intrusive interference into internal religious affairs by the state. Although it streamlines the registration process (down to five years instead of 23), registration is mandatory. Religious groups must follow a cumbersome process of registration and recognition to obtain the right to conduct their activities.²⁰ Religious communities, lawyers and human rights defenders have criticized the law for interfering in the internal affairs of religious organizations. They further criticized vague and ambiguous language regarding "national unity" and "fine traditions" which could be easily misused.

¹⁸ "MPS proposes heavy prison sentence for members of the Club of Free Journalists", April 2012, Dân Làm Báo Blog, <http://danlambaovn.blogspot.fr/2012/04/cong-a-inh-muc-nang-ne-oi-voi-cac-thanh.html>; Reading Orwell in Hanoi, Vo Van Ai, Asian Wall Street Journal, 23 April 2012.

¹⁹ <https://www.reuters.com/article/us-vietnam-dissident-trial/vietnam-jails-prominent-human-rights-lawyer-five-other-activists-idUSKCN1HC1T9>

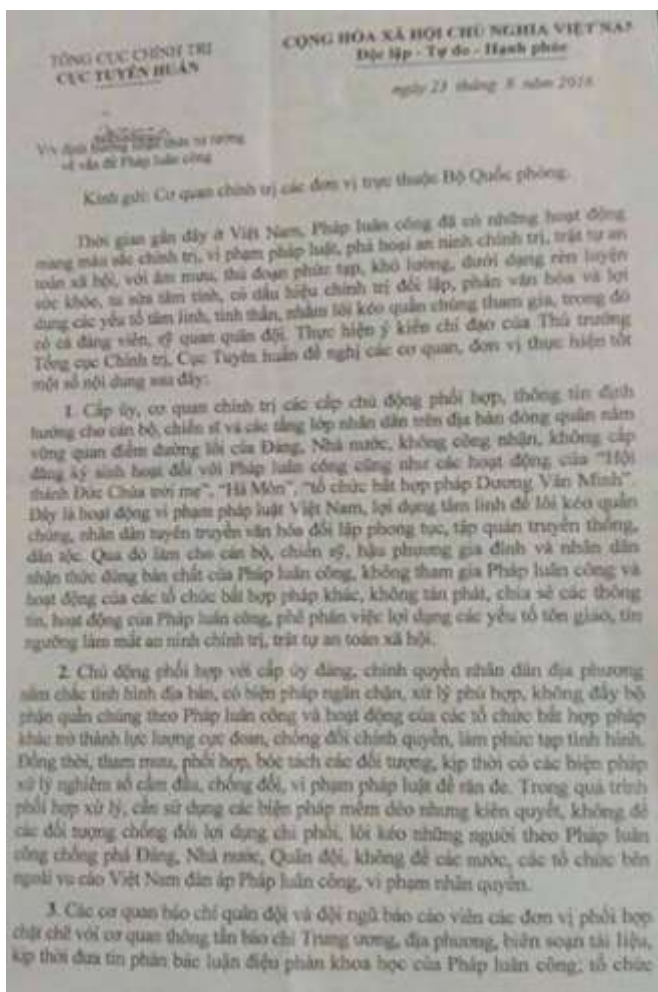
²⁰ Under the two-step process prescribed by the Law on Belief and Religion, religious groups are first required to register with the authorities. Then, they acquire recognition if they are able to operate for at least five years.

The Law defines a religious organization as “a grouping of believers, dignitaries, sub-dignitaries and clergypersons of a religion, which is organized according to a given structure recognized by the State” (Article 2.12). No legal status is provided for religious groups that cannot, or choose not to register with the authorities. Members of non-registered religious groups and communities, such as the Unified Buddhist Church of Vietnam (UBCV), Khmer Krom Buddhists, various Protestant house churches, Hoa Hao, and Cao Dai have suffered systematic repression, including arbitrary detention, harassment, and intimidation.

A new administrative decree proposes fines of up to US\$2,650 for all activities deemed to “abuse the right to freedom of religion to infringe upon the interests of the state.”

In January and February 2018, 10 Hoa Hao Buddhists were sentenced from two to 12 years in prison on groundless charges of disrupting public order. In February 2018, 24 Hmong Christians suffered beatings and threats from local officials who pressed them to renounce their faith.

UBCV leader Thích Quảng Đô has remained under house arrest without charge since 2003 for refusing to apply for registration. The UN Committee on Torture expressed concern on Thich Quang Do’s situation in their Concluding Observations on Vietnam’s periodic report in 2018, and asked Vietnam to provide more information on his case.²¹



Falun Gong practitioners have also been subjected to repression. In July 2017, over 40 persons were temporarily arrested and beaten by Police as they practiced meditation in a park in Nha Trang. On 23rd August 2018, the Propaganda Section of the Ministry of Defence’s Political Department issued an order to political cadres at all levels to increase surveillance of Falun Gong practitioners and take measures to stem their activities (*left*). The statement ordered “Force 47”, the Defence Ministry’s brigade of cyber-warriors (*see Article 19 on Internet Freedom, page 14*) to post articles on the web denouncing Falun Gong activities and warning people not to join the movement.

The UN Committee on Torture also expressed concern on the 'disproportionate detention and **the high number of deaths in custody of members of ethnic and religious minorities**... as a result of torture and ill-treatment in police stations and other places of deprivation of liberty”. CAT called on Vietnam to clarify the deaths in custody of Hoa Hao Buddhist Nguyễn Hữu Tấn (*see*

²¹ Concluding Observations of the UN Committee against Torture, CAT/C/VNM/1, 28 December 2018.

Article 7), Hmong Christian Ma Seo Sung, Pastor Ksor Xiem of the Montagnard Evangelical Church and Y Ku Knul, a Montagnard Christian who died while under arrest and whose body showed signs of electric shocks.

In July 2014, during his visit to Vietnam, the UN Special Rapporteur on freedom of religion or belief Professor Heiner Bielefeldt said that his meetings with non-recognized religious groups were interrupted by plain-clothed security agents and their members were “intimidated, harassed or prevented from travelling by the police”. He said that the government had violated the terms of *in situ* visits by denying him free and unfettered access to individuals and groups of his choice, and concluded that “serious violations of freedom of religion or belief are a reality in Vietnam”.

The current UN Special Rapporteur on FoRB Dr. Ahmed Shaheed told VCHR that Vietnam was the country which had the fifth largest number of complaints for abuses of FoRB under his mandate.

Article 19 (The Right to Freedom of Opinion and Expression)

Dissent heavily repressed amid tighter media and internet controls

Violations of the right to freedom of opinion and expression are rife in Vietnam. No independent news outlets exist in the country. The government is intolerant of any forms of dissent and routinely uses repressive provisions of the Criminal Code that are incompatible with Article 19 of the ICCPR to arrest, prosecute, and imprison human rights defenders, activists, bloggers and journalists who criticize the government or express support for democracy and human rights.

Between January 2017 and February 2019, the government crackdown on freedom of expression dramatically intensified. During this period, at least **117 civil society activists, including 23 women**, were condemned to prison terms ranging from one to 20 years, or placed under pre-trial detention. Many were detained in solitary confinement for extensive periods, deprived of the right to meet their lawyers and prepare their defence. Scores of activists were arbitrarily arrested for peaceful human rights activities during the crackdown, and have not yet been charged.

Almost all of the charges against these activists, human rights defenders and government critics were brought under vaguely-worded “national security” provisions in the Criminal Code that make no distinction between violent acts (such as terrorism) and the peaceful exercise of the right to freedom of expression. These clauses are inconsistent with the rights enshrined in the International Covenant on Civil and Political Rights (ICCPR).

The **sharp rise in convictions under Article 109** on “carrying out activities aimed at overthrowing the people’s administration”, which carries the death penalty, is particularly alarming. In 2018, 15 people were sentenced to imprisonment under Article 109 and five others are awaiting trial, compared to six people sentenced in 2017 and two in 2016.

Alongside Article 109, clauses most frequently invoked against activists are Article 117 on “spreading anti-state propaganda” (formerly Article 88 of the Criminal Code) and Article 331 on “abusing democratic freedoms to harm the interests of the state” (formerly Article 258). Other national security provisions include Article 116 on “undermining the unity policy”, Article 118 on “disrupting security” and Article 121 on “fleeing abroad with a view to opposing the people’s administration”.

Many Christian Montagnards who fled to Cambodia to escape religious persecution were imprisoned under the latter charge after they were forcibly “refouled” to Vietnam (*see table of crimes with new and old numbers in annex*).

Press Freedom and the Right of Access to Information

Constitutional guarantees of freedom of expression and the press (Article 25) are nullified by many domestic laws and regulations that prohibit all forms of expression that are deemed to “threaten the interests of the State.” The press, radio, and television stations are all CPV-controlled agencies.

The amended Press Law, which came into force in January 2017, has significantly reduced the already limited space for press freedom. It increases the number of “prohibited acts” from four to thirteen, all of which are unduly vague and place wide-ranging restrictions on the media. Banned activities include publishing “distorted information” that is perceived to “defame the people’s government,” “run contrary to the country’s international unity policies,” “cause alarm amongst the people,” or “sow division between the people and State authorities.” The diffusion of “confidential information” and “state secrets,” neither of which are clearly defined, is banned.

Contrary to recommendations accepted by the government during Vietnam’s second UPR, the amended Press Law contains no provisions for independent or privately-owned newspapers.

A new Law on Access to Information, which took effect in July 2018, raises serious concerns about the right to freedom of expression. The law restricts access to information deemed to be “state secrets,” which are not defined, or for reasons of “state security” and “interests of the nation, people and state.” Citizens who seek to access information must explain why they need it, and provide their names, addresses, and ID. The authorities may refuse to provide information without providing an explanation, and any “wrongful use of information” by those who make the request is subject to sanctions. This new law is particularly dangerous in view of Vietnam’s digitalization of the “hộ khẩu,” or household registration system (*see below, page 19*).

Restrictions on Internet Freedom

Internet freedom has been seriously undermined by draconian government censorship and controls, as well as new legislation that criminalizes online expression. The Law on Cybersecurity, which was adopted by the National Assembly in June 2017 and will come into force in January 2019, deals a severe blow to internet freedom. Drafted by the Ministry of Public Security (MPS), it grants the authorities sweeping powers to monitor the online activity of Vietnam’s 58 million internet users. It requires all service providers to have premises in Vietnam, to store the personal data of its users inside the country, and to remove content deemed “offensive” by the MPS or Ministry of Communications and Information within 24 hours (Article 26). The Law strictly prohibits the use of social networks or the internet to “infringe upon state interests” or spread “false information.” (Articles 8 and 18). Foreign companies operating in Vietnam will also be required to share the personal data of their clients, including bank accounts, hotel bookings, travel itineraries, or online purchases if requested by the authorities, in grave violation of the right to privacy guaranteed in Article 17 of the ICCPR. At Vietnam’s 3rd UPR in January 2019, several UN member states urged Vietnam to amend the Law on Cybersecurity, in particular articles 8, 18 and 26.

An Implementation Decree to the Law on Cybersecurity is still in the drafting process. The latest draft, dated 11 October 2018, contains 66 articles, many of which raise serious human rights

concerns. Under Article 61 of the draft decree, certain personal data must be stored in Vietnam for the lifetime of the company. A list of required data includes biometrics, financial records, political views and philosophical beliefs. Chat logs and search histories must also be stored for at least three years from creation.

Article 21 (The Right to Freedom of Peaceful Assembly)

Peaceful demonstrations suppressed amid legislative vacuum

The right to freedom of peaceful assembly is severely restricted in breach of Article 21 of the ICCPR. Police and government-backed thugs have routinely repressed peaceful demonstrations. Vietnam has no law on public assemblies and the introduction of a draft law on demonstrations in the National Assembly has been repeatedly delayed because of disagreement over the text.

Demonstrations are regulated by Decree 38/2005, which prohibits gatherings outside state agencies and public buildings and bans all protests deemed to “interfere with the activities” of Communist Party of Vietnam (CPV) leaders and state organs. Circular 09/2005/TT-BCA, issued by the Ministry of Public Security to implement Decree 38/2005, prohibits gatherings of more than five people without obtaining prior permission from the authorities. These anti-demonstration regulations were widely invoked in 2017 to quell protracted nationwide peaceful protests against the industrial pollution caused by the Taiwanese steel conglomerate Formosa, and again in June 2018 when thousands protested against a draft law on special economic zones and the controversial Law on Cybersecurity.

Ministry of Public Security Circular 13/2016/TT-BCA, which came into effect in April 2016, contains instructions on the policing of “gatherings causing public disorder in the vicinity of trials.” In such instances, Circular 13 authorizes police to “immediately deploy forces to prevent the disturbance of public order, isolate and arrest opposition elements, instigators and leaders of the disturbance.” Police have frequently invoked Circular 13 to violently attack and detain activists and human rights defenders who protested against unfair trials or gathered outside the courts to express solidarity with fellow activists.

In many cases, authorities used Article 318 of the Criminal Code on “causing public disorder” to arrest, prosecute, and imprison high-profile activists and human rights defenders for the mere exercise of their right to freedom of peaceful assembly. In the wake of the demonstrations in June 2018, hundreds were harassed, interrogated and detained. At least 118 protesters were convicted for disrupting public order, and many were sentenced to prison, some serving as long as four-and-a-half years.

Article 22 (The Right to Freedom of Association)

Little space and no protection for civil society

Despite being guaranteed by the Constitution, the right to freedom of association is significantly restricted. All associative activity is controlled by the Communist Party of Vietnam (CPV) and the Vietnam Fatherland Front (VFF), an umbrella of mass organizations that has a constitutional mandate to oversee the implementation of CPV policies at the grassroots level. The Constitution recognizes only one political party (the CPV) and one trade union (the Vietnam Confederation of Labour). In

January 2018, CPV General-Secretary Nguyễn Phú Trọng commended the police for “preventing the establishment of political opposition groups.”²²

Associations are regulated by a series of decrees that are inconsistent with Article 22 of the ICCPR. Article 4 of Decree 12 on international NGOs (INGOs) in Vietnam, enacted in 2012, forbids INGOs from “organizing or carrying out political, religious or other activities that are inconsistent with state interests or the security, defense and great unity of the Vietnamese people.” There is no Law on Associations. A draft bill presented to the National Assembly in 2016 was rejected because of its restrictive contents. Thousands of informal groups, associations, clubs, and charities have formed in recent years, but there is no legal framework to protect them, and their members risk harassment, travel bans, and detention at any moment (*see example of the Brotherhood of Democracy, page 5*).

Article 25 (Participation in public affairs and the right to vote)

Selections in lieu of elections in the one-party state

Vietnam is a one-party state, where all political institutions are dominated by the Communist Party of Vietnam (CPV). Parliamentary elections are held every five years. However, these polls are not genuine, inclusive, or participatory because the right to stand for election in the National Assembly is systematically violated. Citizens are allowed to vote only for candidates who are either handpicked by the CPV or screened and approved by the CPV-backed mass organization, the Vietnam Fatherland Front (VFF).

This trend is illustrated by the latest parliamentary elections, which were held in May 2016. Ahead of those polls, authorities refused to approve more than 100 independent or self-nominated candidates – including activists and dissidents. According to a local election official, a handful of “fake” independent candidates – all with official backing – were allowed to run to create a facade of democracy. Other independent candidates reported facing threats and intimidation by local officials.²³

Eventually, only 11% (or 97 of 870) of the candidates who ran for the 500 seats at stake were not CPV members.²⁴ More than 90% of the



Poster for the 2016 elections, with caption: “Voting for Members of the National Assembly and the People’s Committees means contributing directly to building a Socialist rule-of-law-state in Vietnam, of the people, by the people, for the people!”

National Assembly deputies who were elected were CPV

²² Nguyen Phu Trọng, Opening speech at the 73rd National Conference of Public Security, Hanoi, 15 January 2018, available at: http://mps.gov.vn/web/guest/ct_trangchu/-/vcmsviewcontent/GbkG/2004/2102/39530 [in Vietnamese]

²³ AFP, *Vietnam thwarts dissidents, pop star election bid*, 26 Apr 2016; NYT, *Obama’s Vietnam Trip Follows Controlled Parliamentary Elections*, 20 May 2016

²⁴ Xinhua, *870 candidates to run for 500 seats in Vietnamese parliament in May*, 26 April 2016

members, and only two “independent” candidates and 19 non-party members nominated by state institutions made it to the legislature.²⁵

Article 27 (The Rights of Minorities)

Cultural, economic, and religious discrimination against minorities

Vietnam has over 50 ethnic communities with unique religious, linguistic, and cultural characteristics and identities. Ethnic minority communities (14.3% of the population, over 13 million people) are among the poorest people in Vietnam. They suffer serious human rights violations, including: religious persecution, expropriation of ancestral lands, forced evictions and displacement, suppression of cultural traditions, arbitrary arrest, enforced disappearances. In addition, spontaneous or state-sponsored migration of Kinh (Vietnam’s largest ethnic group) people into minority regions has often resulted in the forced implementation of unsuitable development programs, and religious persecution. The only complaint mechanism available to members of ethnic communities is the government’s Committee on Ethnic Minority Affairs. However, this body has no authority to enforce decisions or implement measures that would benefit ethnic minorities.

The cultural activities of the ethnic minorities are determined by the CPV without consultation with local populations. There is no law to govern ethnic minority affairs and guarantee ethnic minority rights. Vaguely worded national security clauses in the Criminal Code have often been used to target ethnic minorities, such as Article 116 (“undermining the unity policy”), Article 320 (“performing superstitious practices”), or Article 120 (“organizing, coercing or inciting others to flee abroad or defect to stay overseas with a view to opposing the people's government”). Article 120 has been used to detain Montagnards and members of other ethnic communities fleeing Vietnam to escape persecution.

The government often accuses ethnic minorities of committing “evil practices” in order to suppress their cultural rights. In March 2014, seven ethnic Hmong followers of the Duong Van Minh faith in Tuyen Quang Province were sentenced to prison terms of up to two years because of their religious practices, on charges of “abusing democratic freedoms to harm the interests of the state” under Article 258 (now Article 331) of the Criminal Code.

Ethnic Christian Montagnards in Vietnam’s central highlands are also subjected to repression because of their religious beliefs. Over the past few years, several hundred Montagnards have been forced to flee to Cambodia. Khmer Krom Buddhists have been deprived of their lands and forbidden from teaching their native language.

Discrimination against ethnic and religious minorities is perpetrated by the system of the “*hộ khẩu*”, or **household registration card**. This is an obligatory permit that gives access to housing ownership, healthcare, education and other key public social services. It is issued by local security officials, who can confiscate or refuse it at will. Parents who are refused the permit cannot obtain birth certificates, and thus cannot register their children for schooling or obtain subsidies for health and education.

²⁵ Reuters, *Vietnam communists tighten grip after victory in strictly vetted vote*, 9.6. 2016; Xinhua, *Vietnam elects 496 deputies to new parliament*, 9 June 2016; CNA, *Vietnam declares election a success despite proxy voting allegations*, 9 Jun 2016

Members of non-recognized religions or ethnic and religious minorities are frequently denied the *hộ khẩu* because of their origin or beliefs, and suffer denials of their rights in all aspects of their daily lives. In 2017, the government announced it was abolishing the *hộ khẩu* and replacing it with a digital ID number and an online personal file. To obtain this number, however, citizens must provide police with 22 information points, including their religion and ethnicity. This new digital system will exacerbate discrimination against minorities and negatively impact the enjoyment of their fundamental civic, political and economic rights.

The ethnic group (Dân tộc) and religion (Tôn giáo) is inscribed on the *hộ khẩu* (see page 2 of the facsimile above, 5th line down). On this facsimile, the bearer declares his religion as "none" (không). Members of Protestant house churches and other religious communities often write "none" to avoid discrimination and harassments on religious grounds. However, when they do, Police frequently prevent them from attending church services on the grounds that they have no religion. This is a real "Catch 22" situation for religious followers, especially those belonging to unrecognized religious communities in Vietnam.



Recommendations

The VCHR calls upon Vietnam to take all necessary steps to:

- Immediately and unconditionally release all human rights defenders, journalists, religious and political dissidents detained for the peaceful expression of their political and other opinions or religious beliefs;
- End censorship, mass surveillance, and all acts of harassment, including at the judicial level, against all human rights defenders, including those using the Internet and ICTs for their human rights work, and comply with the provisions of the 1998 UN Declaration on Human Rights Defenders;
- Implement the 2002 recommendations of the UN Human Rights Committee by bringing domestic legislation into line with international human rights law and immediately repealing all legislation restricting the exercise of internationally recognised human rights;
- Urgently revise or repeal vaguely-defined "national security" provisions in the Criminal Code, especially Articles 109, 110, 115, 116, 117, 121 and 331); Article 117 should never be invoked to suppress the rights to freedom of expression online or offline, as guaranteed in ICCPR Article 19; revise article 19 which obliges lawyers to disclose information on clients accused of national security crimes, to bring it into line with article 73 of the Criminal Procedures Code;

- Revise Articles 119, 172, 173 and 74 of the 2015 Criminal Procedures Code regulating the investigation and detention of persons charged with “national security” crimes to bring them into line with Article 9 of the ICCPR;
- Review the Vietnamese Constitution to ensure it conforms with the ICCPR and other key international human rights standards;
- Implement provisions in Vietnamese legislation on the harmonization of laws which guarantee that in case of discrepancies between domestic laws and international treaties to which Vietnam is state party, the provisions of international treaties will take precedence; ensure that the Constitution is not exempted from this rule;
- Guarantee the right to due process of law, including the right to a fair trial; defendants should be able to meet their lawyers to adequately prepare their defence; defence lawyers must have the right to present relevant evidence in court; defendants should be allowed to speak in their own defence;
- Conform to UN Standard Minimum Rules on the Treatment of Prisoners; abolish forced labour and end practices of torture and ill-treatment of prisoners;
- Revise the Law on Religion and Belief and all other legislation and regulations on religion to align them with the international standards enshrined in Article 18 of the ICCPR; reduce all administrative obstacles that impede the exercise of peaceful religious activities;
- Ensure that registration of religious groups is optional, not mandatory, as recommended by the UN Special Rapporteur on Freedom of Religion or Belief, and is not used as a tool to control religious activities;
- Ensure the rights of all religious groups to practice freely, including non-registered groups such as the Unified Buddhist Church of Vietnam, independent Hoa Hao, Protestant house churches, Khmer Krom Buddhists etc.; and cease harassment of their members;
- Guarantee freedom of media, authorize the publication of independent newspapers and cease legal sanctions and harassment against journalists and citizens expressing peaceful views through the printed media, Internet or radio;
- Revise the Law on Cyber Security to ensure it is aligned with Article 19 of the ICCPR;
- Adopt a Law on Associations that guarantees the right to form associations outside the framework of the Communist Party, thus fostering the emergence of independent civil society;
- Amend the Labour Code to bring it into line with the ICCPR and all ILO requirements; allow the establishment of independent trade unions; release all those detained for peaceful activities to promote worker rights;
- Issue standing invitations to UN special procedures, notably the UN Special Rapporteur on Freedom of Opinion and Expression, the UN Working Group on Arbitrary Detention and the UN Special Representative on Human Rights Defenders, and allow them free and unfettered access to individuals and groups;
- Establish a moratorium on the death penalty as a first step towards abolishment of capital punishment under all circumstances; review national security provisions in the Criminal Code to ensure that no-one may incur the death sentence simply for expressing views opposing those of the Communist Party; lift the classification of “state secrets” on capital punishment;
- Allow unhindered access to the country by international human rights NGOs.

Annex I: National Security Offences in the 2015 Amended Criminal Code

1999 Criminal Code	Name of the Offence	2015 Criminal Code
Article 79	Activities aimed at overthrowing the people's administration (<i>incurs the death penalty</i>)	Article 109
Article 80	Spying (<i>incurs the death penalty</i>)	Article 110
<i>New</i>	Terrorism aimed at opposing the people's administration (<i>incurs the death penalty</i>)	Article 113
Article 87	Undermining the unity policy	Article 116
Article 88	Making, storing, disseminating information, documents, materials, items against the Socialist Republic of Vietnam (<i>formerly "Conducting propaganda against the SRV"</i>)	Article 117
Article 89	Disrupting Security	Article 118
<i>New</i>	Organizing, coercing or inciting others to flee abroad or defect to stay overseas with a view to opposing the people's administration	Article 120
Article 91	Fleeing abroad or defecting to stay overseas with a view to opposing the people's administration	Article 121
Article 245	Causing public disorder	Article 318
Article 258	Abusing democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens	Article 331

Annex II: Prominent Human Rights Defenders in Detention



Most Venerable Thích Quảng Độ, born 27 November 1928, Vietnam's longest-detained political prisoner, is currently under a form of house arrest at the Từ Hiếu Pagoda in Ho Chi Minh City. Leader of the non-recognized Unified Buddhist Church of Vietnam (UBCV), he has been detained under house arrest almost uninterruptedly since 2003, prior to which he spent 10 years in internal exile and over six years in prison – a total of more than three decades of detention simply for peaceful advocacy of religious freedom and human rights. The UN Working Group on Arbitrary Detention has declared Thich Quang Do's detention to be a violation of international human rights law. Thích Quảng Độ is deprived of citizenship rights and his communications are monitored. In September 2018, he was expelled from the Thanh Minh Zen Monastery where he had been under house arrest since 2003. With no place to stay, he returned to his home village in Thái Bình, northern Vietnam, but was held under conditions of house arrest and forbidden to communicate freely. He managed to escape and return to Ho Chi Minh City. However, he is currently surrounded by plain clothed security agents and deprived of the right to communicate freely. Thích Quảng Độ is a 16-time Nobel Peace Prize nominee, Rafto prize laureate, scholar, and leading figure in the movement for democracy in Vietnam.



Trần Thị Nga, born on 27 April 1977, an outspoken human rights defender, labour and land rights activist was sentenced to nine years in prison and five years house arrest at a one-day trial on 25 July 2017 by the People's Court in Hanoi. The sentence was upheld on appeal on 22 December 2017. She was charged with "propaganda against the SRV". Security officers barred her husband and children from the court, along with supporters and independent journalists. Trần Thị Nga was arrested on 21 January 2017 at her home in Phú Lý, northern Vietnam. She is the mother of four children. Trần Thị Nga has suffered repeated intimidation, harassment, detention, interrogation, and physical assaults because of her human rights activities. In May 2014, a group of five men assaulted her with iron rods, breaking her arm and leg. Trần Thị Nga's health condition has deteriorated in prison as a result of a mucosal injury sustained during the beating in 2014. She is currently detained in Gia Trung Detention Center, Gia Lai Province, 1,300 kilometres from her home, and has received very few visits from her family.



Dr. Hồ Văn Hải, 56, was condemned to four years in prison and two years house arrest for "*propaganda against the state*" (former Article 88 of the Criminal Code, now Article 117) at a closed trial in Ho Chi Minh City on 1st February 2018. He was arrested on 2nd November 2016 and charged with writing articles calling for a boycott of the elections and protesting the grave pollution caused by the Taiwanese steel plant Formosa. Formerly a doctor at Chợ Rẫy, the largest hospital in Ho Chi Minh City, he opened his own clinic in 2004, and began writing articles on his blog about education, the environment and the country's political affairs in 2009. As a doctor, he was especially concerned about the long-term effects of the Formosa toxic waste spill which polluted over 200 kilometres of seas along the coasts of central Vietnam and caused the deaths of millions of fish.



Phan Văn Thu, 71, leader of a peaceful ecological group named "Bia Son Council for Public Law and Affairs" was condemned to life imprisonment in February 2013 along with 21 members of his group who received prison terms ranging from 10 to 17 years on charges of "*activities aimed at overthrowing the people's administration*" (formerly Article 79 of the Criminal Code). The group ran an eco-tourist company at the Da Bia Tourist Resort in Phu Yen Province. They signed a contact with the local authorities to engage in protecting the forest and environment. The group believed in the prophecies of Nguyen Binh Khiem, a 16th century oracle or Vietnamese equivalent of Nostradamus, and dreamed of building a new "Utopia" in which science, nature and humankind would be harmoniously balanced. They organized conferences and produced leaflets to disseminate their beliefs. According to reports in the state-run media, the group had several hundred members and sections in several central

and southern provinces. According to the official daily Saigon Giai Phong (Saigon Liberation), the group "chose the method of nonviolence" to "try to win the confidence of the masses against the leadership of the Party and State".



ĐỘ THỊ HỒNG, born 1957, is a defender of environmental rights and a member of the Buddhist sect Ân Đàn Đại Đạo. She is serving a 13-year sentence and 5 years house arrest in February 2013 for "aiming to overthrow the people's administration" (Article 79 of the Criminal Code). The "incriminating evidence" against her included "excerpts from a sermon by the founder which referenced human rights, protection of the environment, and international law". She is also member of the "Council for the Laws and Public Affairs of Bia Son." 22 members of the group were sentenced to a total of 299 years in prison and 105 years house arrest at a closed trial in 2013 (see case of Phan Văn Thu above). She is currently detained at An Phước Detention Centre, Bình Dương province and is in poor health.



TRƯƠNG MINH DỨC, born 1960, is a citizen journalist and the Deputy Head of the Brotherhood for Democracy in the Southern region of the country. Former prisoner of conscience, he was convicted in 2007 and sentenced to five years in prison on charges of "abusing democratic freedoms and rights to infringe upon the interests of the state", under Article 258 of the Penal Code (now Article 331). After his release in 2012, he was harassed and repeatedly assaulted by unidentified people working for the government. He was arrested on 30 July 2017 and stood trial along with Nguyen Van Dai, Le Thu Ha other members of the Brotherhood for Democracy on 5 April 2018. He received a 12 year sentence, followed by 5 years of house arrest. His sentence was upheld on appeal on June 4, 2018. The UN Working Group on Arbitrary Detention has declared that Truong Minh is detained in violation of international law.



TRẦN THỊ XUÂN, born 10 October 1976, is a human rights defender and member of the Brotherhood for Democracy. She was actively engaged in charity work in her local Catholic community, and spoke out against the pollution disaster caused by the Formosa Steel plant. She was arrested in Hà Tĩnh province on 17 October 2017 and charged under Article 79 (now 109) of the Criminal Code on "activities aimed at overthrowing the people's administration". She was held incommunicado for five months before her trial on 12 April 2018, and had no lawyer nor means to prepare her defence. The trial was held without any prior notification to her family, and was closed to the public. Trần Thị Xuân was condemned to nine years in prison and five years house arrest. She is currently help in No 5 Prison, Thánh Hóa province. She suffers from a kidney disease, and is reportedly in poor health.



VIETNAM COMMITTEE ON HUMAN RIGHTS

48 rue Parmentier – 94450 Limeil Brévannes (France) ☎ (33 1) 45 98 30 85 – Fax (33 1) 45 98 32 61

E-mail: vietnam.committee@gmail.com - Website: <http://queme.org>

Twitter : [@vchr2016](https://twitter.com/vchr2016) – Facebook : <https://www.facebook.com/queme.net>