

## Suggested recommendations for the 4<sup>th</sup> Universal Periodic Review of Vietnam

The FIDH and its member organisation the Vietnam Committee on Human Rights (VCHR) propose the following recommendations for the fourth Universal Periodic Review (UPR) of Vietnam :

### Implementation of Treaty Body recommendations

- Implement recommendations of the Committee on the Elimination of Racial Discrimination (CERD) of December 2023 to amend provisions in the Criminal Code, the Press Law and the Cybersecurity Law to ensure that they cannot be interpreted to restrict civic space and undermine the rights of ethnic minorities, human rights defenders, lawyers and journalists; to amend the Law on Counter-Terrorism to prohibit discrimination on the grounds of race, colour, descent, nationality, ethnicity or ethno-religious identity; to guarantee the rights of ethnic and religious groups to manifest their religion or belief regardless of registration status; and to publish statistics on the death penalty, including sentences, executions and the numbers on death row;
- Implement the recommendations of the Human Rights Committee (CCPR) of August 2019 regarding torture and ill-treatment in detention, the right to a fair trial, the need to urgently revise legislation in order to guarantee and protect freedom of expression online and offline, to promote pluralistic media that can operate free from undue State interference, and to ensure that human rights defenders may carry out their legitimate activities without fear of restrictions or reprisal.

### Cooperation with UN human rights mechanisms

- Respond positively and without delay to pending requests to visit the country by the Special Rapporteur on Freedom of Opinion and Expression, the Special Rapporteur on Human Rights Defenders and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Execution, and give them unfettered access; extend a standing invitation to all special procedures' mandate holders.

### Compliance with international human rights law

- Urgently review and amend vaguely-defined provisions in the Criminal Code concerning offenses against “national security” to ensure they cannot be used to arrest, detain and prosecute human rights defenders and individuals for the legitimate and peaceful exercise of their rights to freedom of expression, association, peaceful assembly and freedom of religion or belief, in line with the ICCPR; in particular, amend or repeal **Article 109** on “*activities aimed at overthrowing the people’s administration*” which carries the death penalty, **Article 117** on “*making, storing and distributing information and documents against the Socialist Republic of Vietnam*” and **Article 331** on “*abusing democratic freedoms to encroach on the interests of the State*”.
- Release all human rights defenders and civil society activists arbitrarily detained under Articles 109, 117 and 331, including **Pastor Nguyễn Trung Tôn, Lê Thị Xuân** and **Trương Minh Đức** (Article 109) independent journalists **Phạm Đoan Trang, Phạm Chí Dũng, Nguyễn Tường Thụy**, land rights activists **Trịnh Bá Phương, Can Thị Thêu** and **Trịnh Bá Tư** (Article 117) and **Hàng Đức Bình** (Article 331).
- Repeal Articles 74 and article 173 of the 2015 Criminal Procedures Code which provide that people detained for alleged “national security” violations may be tried in secret (closed trials) and detained incommunicado in pre-trial detention for an unlimited period; ensure that all persons, including those detained for national security crimes, have immediate access to legal counsel upon being arrested; Repeal Article 19 of the Criminal Code which holds lawyers criminally responsible for not reporting clients to the authorities for a suspected “national security” crimes.

## **Environmental rights defenders**

- Cease the current crack-down on environmental rights defenders and proponents of a clean energy transition in Vietnam ; respond to concerns of the UN Working Group on Arbitrary Detention, the UN Human Rights and UN Environment Programme on the recent arbitrary arrest and conviction of six climate change leaders on politically-motivated charges of “tax evasion” and the forced closure of their NGOs; lift all charges against environmental rights lawyer **Đặng Đình Bách**, Ms **Hàng Thị Minh Hồng** and energy policy expert Ms **Ngô Thị Tố Nhiên** and ensure their immediate release ; create an enabling environment so that environmental rights defenders can pursue their peaceful activities, including criticising government policies and practices on climate change without fear or intimidation.
- Adopt necessary legislation and provide a clear legal framework for the operations of non-profit organisations in Vietnam, including environmental organizations; make a clear legal distinction between “non-commercial” entities, such as charities, and “non-profit” organisations, and establish clear guidelines on access to funding, including from international donors, and the applicable tax laws thereof.
- Cease harassments, intimidation and arbitrary detention of environmental rights defenders and civil society activists who are playing a role in international relations, such as members of the Vietnam Domestic Advisory Group, which is essential to the implementation of sustainable development aspects of the EU-Vietnam Free Trade Agreement.

## **Improving access to health care for detainees**

- Ensure that all persons, including those deprived of their liberty, have access to healthcare; implement relevant national and international legislation that guarantees the right of all detainees to adequate medical treatment, including regular examinations and surgery when necessary; ensure that prisoners suffering from ill-health are immediately treated, and that prison wardens who neglect or deny demands for healthcare by prisoners or their families are immediately investigated and prosecuted.
- Cease the practice of institutionalising prisoners, including human rights defenders, in psychiatric institutions during pre-trial detention, including those who have no history of mental illness; protocols of *incommunicado* detention for suspected “national security” offenders should be lifted, prisoners should be allowed to receive visits and be examined by medical doctors independent of the prison authorities. Former political prisoner Lê Anh Hùng was institutionalised and subjected to heavy medication during four years in Hanoi Psychiatric Hospital whilst awaiting trial in 2022.

## **The death penalty**

- Reduce the list of crimes punishable by the death penalty to those that meet the threshold of “most serious crimes” under Article 6 of the ICCPR; review vaguely-worded “national security” provisions in the Criminal Code, which make no distinction between violent acts and the peaceful exercise of freedom of expression, to ensure that no one can be sentenced to death for expressing views at odds with those of the Communist Party of Vietnam.
- Guarantee the right to a fair trial and due process of law; ensure that “confessions” obtained under torture are inadmissible in trials; improve detention conditions on death row, notably by ceasing the inhumane practice of maintaining detainees in shackles night and day, often for decades, whilst they await execution.
- Lift the classification of “state secrets” on death sentences and executions, and publish information on the numbers, identity and whereabouts of all those detained on death row.

## **Freedom of Expression and Internet Freedom**

- Revise all existing laws and regulations that restrict the rights to freedom of expression, both online and offline, including the Criminal Code, the Press Law, the Publishing Law, the 2018 Law on

State Secrets, the 2018 Cybersecurity Law and other Internet-related decrees that are used to sanction and imprison journalists and internet users.

- Remove provisions in the Cybersecurity Law and its implementing Decree 53/2022/ND-CP of 2022 that violate freedom of speech and privacy rights, notably Articles 6 of the Cybersecurity Law on “prohibited” content deemed to infringe on national security, undermine fine traditions and customs, distort facts, or insult Vietnamese “leaders, famous people or national heroes”; Article 26 of the Cybersecurity Law which requires social media companies to remove content upon request from the government within 24 hours; and Article 21.2.dd which enables the government to impose a total internet shutdown in specific areas, as was the case during violent land-rights clashes in Đồng Tâm village in January 2020.
- Revise Decree 13/2023/ND-CP that broadens the scope of state surveillance and mandates data localization, Decree 72/2013/ND-CP that restricts websites from publishing original content, and Decree 15/2022/ND-CP that imposes financial penalties for illegal online speech.

### **Freedom of peaceful assembly**

- Enact legislation guaranteeing the exercise of the right to freedom of peaceful assembly, in accordance with Vietnam’s Constitution and obligations under Article 21 of the ICCPR ; review existing legislation, such as Decree 38 and Circulars 9 and 13, which criminalize or severely restrict the right to freedom of peaceful assembly online and offline.
- Guarantee a safe environment for those who exercise, or seek to exercise, their legitimate right to freedom of peaceful assembly; facilitate peaceful assemblies and demonstrations, including those intended to voice dissent and criticism of government laws, policies, and practices.
- Refrain from using force against peaceful protesters and ensure that any use of force to disperse assemblies strictly complies with international standards, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Human Rights Guidance on Less-Lethal Weapons in Law Enforcement.

### **Freedom of Religion or Belief**

- Review the Law on Belief and Religion to bring it into line with the guarantees of freedom of religion or belief enshrined in Article 18 of the ICCPR; remove mandatory registration requirements and reduce administrative obstacles applicable to peaceful religious activities of registered and non-registered religious groups in order to guarantee freedom of religion or belief; prohibit harassment and intimidation by the authorities of persons or groups who refuse to join State-controlled religious associations, as well as discriminatory measures including denial of access to education, employment, healthcare and other social services.

### **Human rights education**

- Ensure that human rights education in schools, universities and training courses for public officials and law-enforcement personnel is based on the principles that human rights are universal, inalienable, interdependent and interrelated as stipulated in the UN Declaration on Human Rights, with no derogations for reasons of historic, cultural or national specificities.