

Vietnam's amended Criminal Code reduces death penalty crimes, increases restrictions on freedom and rights

PARIS, 27 November 2015 (VIETNAM COMMITTEE) – The **Vietnam Committee on Human Rights** (VCHR) welcomes the abolition of the death penalty for seven crimes in the amended Criminal Code voted by Vietnam's National Assembly today. However, VCHR is deeply disappointed that the long-promised reform of the Criminal Code has not only failed to bring legislation into line with international human rights law, but on the contrary has increased restrictions on fundamental freedoms and rights in Vietnam.

“The amended Criminal Code goes even further than the old one – if that is possible – in criminalizing the exercise of human rights”, said VCHR President Vo Van Ai. *“Despite decades of pressure from the international community, ambiguously-defined “national security” crimes are still in place, and they are now flanked by even vaguer provisions on “infringing or interfering on the rights of others”, which are grossly inconsistent with UN International Covenant on Civil and Political Rights (ICCPR)”.*

The death penalty is abolished for crimes of robbery (Article 133 in the old Code), manufacturing or trading in fake foods and medicines (Article 157), producing, trading in, or possessing narcotics (Articles 193 and 194), destroying national security works or facilities (Article 231), disobeying orders (Article 316) and surrendering to the enemy (Article 322). Death sentences for official corruption will be commuted to life imprisonment if the officials pay back at least 75% of their illegal gains. The death penalty is also abolished for people over 75 years old.

Capital punishment is maintained, however, for vaguely-worded national security crimes such as spying (Article 80 in the former Code) and subversion (*“activities aimed at overthrowing the people's administration”*, formerly Article 79), which are frequently used to detain government critics. At its Universal Periodic Review at the UN in February 2014, Vietnam made firm commitments to bring Article 79 into line with the ICCPR on the recommendations of several countries, including Norway, Canada and Australia. In 2013, the State Prosecutor called for the death penalty under Article 79 against activist Pham Van Thu for his peaceful environmental activities. He was condemned to life in prison.

“Vietnam announced that reducing crimes eligible for the death penalty is aimed to demonstrate the State's “humanitarian policy”, said Vo Van Ai. *“In fact it reveals the State's obsession with suppressing independent voices to maintain political control. As for exempting the elderly from the death penalty, this provision was enshrined in the*

15th century Lê Code, more than 500 years ago!"

Crimes such as *"circulating anti-Socialist propaganda"* (formerly Article 88) and *"abusing democratic freedoms and rights to encroach upon State interests"* (former Article 258), which Vietnam also promised to amend, remain unchanged in the revised Criminal Code, except for their numbers. Certain provisions concerning freedom of expression, religion or belief, association and assembly incur harsher penalties.

Some members of the National Assembly opposed the change in the death penalty regarding corruption. They feared it would weaken the government's fight to stamp out corruption, which has reached proportions of a "national catastrophe". Some also said that corrupt officials would use this loophole in the law to "buy back their lives".

The amended Criminal Code will come into force on 1st July, 2016.

This flawed reform of the Criminal Code comes against a backdrop of restrictive human rights legislation under preparation in Vietnam. Today, 27 November, the National Assembly also debated the 5th draft of a "Law on Belief and Religion" - Vietnam's very first law of this kind, which has been strongly criticized by all Vietnam's religious communities. The draft gives the government extensive leeway to interfere in the internal affairs of religious communities and control their activities, in violation of Article 18 of the ICCPR. A new "Law on Associations" is also under way, which imposes excessive government controls on associative activity, as well as restrictive legislation on access to information. In addition, the amended Criminal Procedures Code contains several elements that are inconsistent with international human rights law.