fidh

VIETNAM COMMITTEE
ON HUMAN RIGHTS
QUÊ ME:
ACTION FOR DEMOCRACY IN
VIETNAM

Ủy ban Bảo vệ Quyền làm Người Việt Nam

BLOGGERS AND NETIZENS BEHIND BARS

Restrictions on Internet Freedom in Vietnam

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel,

January 2013 / n°603a - AFP PHOTO / IAN TIMBERLAKE

Cover Photo : A policeman, flanked by local militia members, tries to stop a foreign journalist from taking photos outside the Ho Chi Minh City People's Court during the trial of a blogger in August 2011 (AFP, Photo Ian Timberlake).

Introduction ---- 5
Internet Penetration in Vietnam ---- 6
The Blossoming of the Blogs ---- 8
Legal Restrictions on Freedom of Online Expression ---- 9
The new Internet Decree ---- 11
National Security Laws ---- 12
Repression of Bloggers and Netizens ---- 13
- Arbitrary Detention ---- 13
- Harassments, Assaults and Intimidation ---- 16
- The Club of Free Journalists: Bloggers Điếu Cày, Tạ Phong Tần and Phan Thanh Hải -- 18
- The Case of Dân Làm Báo – "Citizens' Journalism" ---- 20
In Their Own Words: Extracts from the Blogs ---- 21
Conclusions and Recommendations ---- 28
Annex I: Provisions under the Criminal Code that are inconsistent with international human rights law ---- 34
Annex II: Recommendations on freedom of expression and of the press made by UN Member States at the Universal Periodic Review of Vietnam in 2009 ---- 36
Annex III: Bloggers and Netizens Behind Bars At a Glance: Non-exhaustive list of persons detained for Online activities ---- 38
Annex IV: A number of blogs carrying dissident views in Vietnam ---- 42

Executive Summary

Vietnam has one of the fastest growing Internet populations in Asia. Today, over 31 million people use the Internet – more than one third of the population – compared with 2 millions in 2000. Internet penetration is especially high amongst the young people, reaching up to 95 percent amongst those aged 15-22 in large cities such as Hanoi and Ho Chi Minh City (Saigon). Social networks are also widely popular, and 80 percent of young Vietnamese have at least one social network account.

The Vietnamese government has actively promoted the expansion of Internet access in order to support economic development. At the same time, however, the Vietnamese Communist Party (VCP) perceives free access to the Internet as a potential threat to its political monopoly. As a result, the government has intensified online censorship and controls, adopted new restrictive legislations and subjected Internet users to arrest, harassment and imprisonment. In December 2012, Prime Minister Nguyễn Tấn Dũng ordered Security forces to step up the fight against *"hostile forces"* using the Internet to *"spread propaganda which threatens our national security and oppose the Communist Party and the state"*.

Amongst the prime targets of government repression are the blogs. Millions of blogs have sprung up recently, and despite government restrictions, the "blogosphere" is vibrant and diversified. In Vietnam's one-party system, blogs provide a source of independent news and comment that is impossible in the state-controlled media. They also provide a platform for civic activism and a new form of "citizens' journalism". Dissidents, human rights defenders and online journalists increasingly resort to the blogs to voice their political opinions, expose corruption, and draw attention to land-grabbing and other official abuses of power. With the blogs, a culture of protest is gradually emerging in Vietnam.

At the same time, bloggers and netizens in Vietnam face long-standing draconian restrictive legislations, policies and practices, while the government has intensified its crackdown on freedom of expression, both online and offline. In September 2012, the assault on Internet freedom reached a new height when the Vietnamese prime minister himself issued an order to punish criticisms of the Communist Party and the government, targeting by name three dissident blogs. The same month, prominent bloggers Nguyễn Văn Hải Điếu Cày, Ms. Tạ Phong Tần and Phan Thanh Hai, founders of the Club of Free Journalists, stood trial for using the Internet to advocate human rights and democratic reforms. They received sentences ranging from four to twelve years.

In this report, based on international human rights law, statistics from the Vietnamese official press and articles by Vietnamese bloggers and netizens, the International Federation for Human Rights (FIDH) and the Vietnam Committee on Human Rights seek to echo voices inside Vietnam who are calling for the respect of human rights. We also make concrete recommendations to the Vietnamese government and the international community for the respect and promotion of the fundamental right to freedom of expression, both online and offline in Vietnam.

Introduction

The International Federation for Human Rights (FIDH) and its member organisation, the Vietnam Committee on Human Rights, have documented over the years a significant number of cases of violations of the right to freedom of expression or opinion in Vietnam. The question of Internet freedom also came under strong scrutiny in 2012 with the trial of three prominent bloggers in Ho Chi Minh City (Saigon) on 24 September 2012. The three bloggers, Nguyễn Văn Hải (blog name Điếu Cày), Ms. Tạ Phong Tần (Truth and Justice) and Phan Thanh Hải (Anh Ba Saigon), founders of the Club of Free Journalists, were sentenced respectively to twelve, ten and four years in prison, followed by five and three years probationary detention (house arrest) for *"circulating propaganda against the Socialist Republic of Vietnam"* (Article 88 of the Vietnamese Criminal Code). Their detention caused widespread international outcry, with appeals launched by US President Barack Obama, the UN High Commissioner for Human Rights Navi Pillay, EU High Representative Catherine Ashton and many more[1]. It also caused tragic consequences in Vietnam. Mrs. Đặng Thị Liêng, the mother of Tạ Phong Tần, immolated herself on 30 July outside the People's Committee in Bạc Liêu to protest her daughter's imprisonment. She died on her way to the hospital.

The case of these bloggers is but one incident in a long, ongoing crackdown on freedom of expression in Vietnam, both online and offline. This is in clear contradiction to the recommendations relating to the respect for freedom of expression which Vietnam had accepted to implement during its first Universal Periodic Review (UPR) in 2009 (see Annex II). It also reveals the government's contradictory policies on the development of the Internet. On the one hand, Vietnam is actively promoting information and communications technologies (ICTs) and e-commerce, and has launched a so-called "Taking off Strategy 2011-2020" which aims to raise Vietnam's ICT sector to the level of its neighbours[2]. The government realizes that ICTs are vital to the country's economic development, and recognizes the Internet as an integral part of the "knowledge era" that Vietnam must enter if this development is to be sustained. Moreover, as a member of ASEAN, Vietnam is committed to promoting ICTs in the ASEAN masterplan for regional connectivity [3].

On the other hand, the Vietnamese Communist Party (VCP) perceives the Internet's expansion as a potential challenge to its political monopoly. Apart from a brief period of relative tolerance in 2006 when Vietnam was seeking membership of the World Trade Organisation (WTO) and hosting the Asia-Pacific Economic Cooperation (APEC) summit in Hanoi, the government has systematically cracked down on Internet freedom, stepping up controls of the Internet and service providers, intensifying monitoring and censorship, arresting, harassing and intimidating "netizens" and introducing new legislation to criminalize controversial web content. Bloggers are a primary target of the government crackdown.

1. "*International Community demands acquittal of bloggers Dieu Cay, Phan Thanh Hai and Ta Phong Tan*", Quê Me: Action for Democracy in Vietnam", 23.9.2012, http://www.queme.net/eng/news_detail.php?numb=1911
2. See the 2012 World Report on Internet Freedom published by Freedom House, chapter on Vietnam. http://www.freedomhouse.org/sites/default/files/Vietnam%202012.pdf
3. Masterplan for ASEAN connectivity, January 2011, http://www.aseansec.org/documents/MPAC.pdf

Internet Penetration in Vietnam

The Internet has developed dramatically since it was first introduced into Vietnam in 1997. According to a 2012 report by Cimigo, a market research company, Vietnam has the fastest growing Internet population in the region, and is swiftly catching up with the rates of Internet use in Thailand and China. Vietnam's Ministry of Information and Communications (MIC) announced in December 2012 that over 31 million people in Vietnam regularly use the internet – over one third of the population[4] - and penetration is up to 50% in urban areas. 88% of users now access the net from their homes instead of Internet cafés as in previous years. Internet penetration is especially high amongst young people – 60% of Vietnam's population is under 35 years old – with a rate of 95% in Hanoi and Ho Chi Minh City amongst those aged 15-22[5].

Access via smart phones has also rapidly increased, and almost 10 million people use third-generation technology (3G) network, introduced in 2009, which enables Internet access via mobile phones. This figure is expected to multiply by 400% over the next five years[6]. According to Vietnam's General Statistics Office, there were 157.8 million mobile phone subscribers in Vietnam by April 2011[7]. This number, which far exceeds Vietnam's 90-million population, reflects the high level of connectivity, but it also reveals the growing wealth disparities in Vietnam. Whereas many people, especially in the big cities, own several mobile phones or multiple SIM cards, an estimated 30 million others, mostly in the rural areas where over 70% of the population lives, have no access to mobile devices at all.

Youtube, Twitter and social networks such as Facebook are available in Vietnam. Since 2009, following state directives that Vietnam has never admitted (or denied), Facebook has been intermittently blocked. However, Vietnam's savvy Internet users can easily circumvent the block. In 2012, almost a million Vietnamese joined Facebook each month in the last half of the year, making Vietnam the country with the highest growth rate in Facebook users in the world. The total number of Facebook users doubled to over 10 million – a ninth of the population according to the social-media analysts at Socialbakers[8]. Even state-controlled newspapers such as *Thanh Niên* (Young People) have their own Facebook page embedded in their articles.

There are also local networks, the most popular of which is Zing.vn. In order to attract young people to the site, it offers free-to-download unlicensed music and Hollywood movies, and now figures amongst the world's 550 top sites[9]. However, US firms such as Coca Cola and Samsung withdrew their advertisements from the site and closed their ZingMe accounts in November 2012 because of piracy concerns[10]. According to the Ministry of Information and

4. *Vietnam Marks 15 years of Internet*, VietnamPlus, 3 December 2012, http://en.vietnamplus.vn/Home/Vietnam-marks-15-years-of-Internet-access/201212/30292.vnplus
5. Cimigo NetCitizens 2012 http://www.cimigo.vn/en-US/ReportDetail.aspx?ProductId=266
6. 3G market eyes 2014 breakthrough, 20.12.2011, http://english.vietnamnet.vn/en/science-technology/16502/3g-market-eyes-2014-breakthrough.html
7. See Freedom House (idem note 2) and "Vietnam subscriber base touches 174.3 millions as of the end of April," Business Times, May 6, 2011, http://vietnambusiness.asia/vietnam-subscriber-base-touches-174-3m-as-at-the-end-of-april/.
8. Vietnam Facebook Statistics http://www.socialbakers.com/facebook-statistics/vietnam and *Vietnam's Blogosphere: The Battleground for Rival Factions of the Ruling Communists* By Patrick Boehler, Dec. 27, 2012 <http://world.time.com/author/timecommiral/>
9. See ranking by Alexa: http://www.alexa.com/siteinfo/zing.vn (accessed 21 November 2012).
10. *"Online piracy a big problem in Vietnam"*, Chris Brummitt, Associated Press, 11 November 2012 http://www.siliconvalley.com/personal-technology/ci_21967091/online-piracy-big-problem-vietnam

Communications (MIC), 80% of youth in Vietnam have an account with at least one social network[11].

Knowing it cannot suppress these social networks, Vietnam has learned to tolerate, and even exploit them when they serve state interests. For several weeks, between June and late August 2011, young Vietnamese used Facebook and text messages to rally support for demonstrations protesting China's claims over the disputed Spratly and Paracel Islands, which mobilized hundreds of people in Hanoi and Saigon[12]. The authorities initially tolerated the protests in order to send an indirect message to China, but finally prohibited and cracked down on them brutally. A similar call for demonstrations broke out in June 2012, but was swiftly suppressed by Police. Buddhist monks and followers of the Unified Buddhist Church of Vietnam (UBCV) including its leader Thich Quang Do were systematically intercepted as they attempted to join the demonstrations.

In order to contain social networking and subject it to tighter state control, in May 2010 the government launched its own version of Facebook, a state-run social network called GoOnline, which requires users to register with their real names and ID numbers when opening an account. So far, the site has only a modest following, but the government aims to have 40 million users (almost half the population) by 2015. According to OpenNet Initiative, an academic project which investigates Internet filtering practices, expanded membership of this site would significantly strengthen the state's monitoring and surveillance capacities[13].

Although Vietnam has less resources to devote to online censorship than China, it is following the Chinese model – allowing wide access whilst filtering and controlling content, and harshly punishing users. Censorship is implemented by the Internet Service providers (ISPs). Vietnam's largest ISP is the state-owned Vietnam Post and Telecommunications (VNPT), followed by Viettel, which is owned by the military, and the privately-owned Vietnamese company Financing and Promoting Technology Corporation (FTP Telecom). In a survey of these three ISPs, with testing conducted between April and August 2012, OpenNet Initiative (ONI) found that they all filtered and blocked a large number of sites, including critical political blogs, news sites, and sites of domestic and international NGOs concerned with democracy, religious freedom and human rights. The Vietnam Committee on Human Rights' Vietnamese-language website was amongst the blocked URLs. The filtering and censorship was not consistent, however, and URLs blocked by one ISP were sometimes available elsewhere. According to ONI, this is not a sign of political openness, as no ISP was found to be "more free" than the others. This unpredictability and lack of transparency about what topics are forbidden makes it extremely hard for bloggers to protect themselves, and perpetuates the culture of fear.

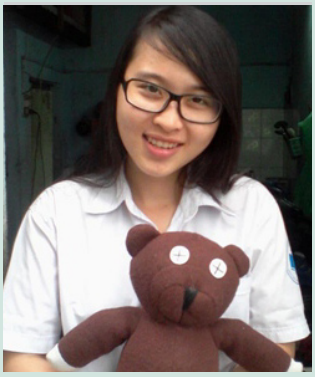
Moreover, whereas Vietnam justifies Internet censorship as a measure to *"protect young people from accessing unhealthy sites"*, OpenNet Initiative found that *"no ISP was found to block pornographic content"*. For the Vietnamese government, the most "unhealthy" subjects remain democracy, religion and human rights.

11. "Vietnam: No "Arab Spring" here, please", Southeast Asia Press Alliance country report, 3 May 2012' http://www.seapabkk.org/seapa-reports/press-freedom-on-southeast-asian-countries/100584-vietnam-no-arab-spring-here-please.html
12. Quê Me: Action for Democracy in Vietnam, http://www.queme.net/eng/news_detail.php?numb=16 and Vietnam Committee on Human Rights statement at the 18th Session of the UN Human Rights Council in Geneva, September 2011, http://www.queme.net/eng/news_detail.php?numb=1685
13. "Update on threats to freedom of expression in Vietnam" by Irene Poetranto, OpenNet Initiative, 10 September 2012, http://opennet.net/blog/2012/09/update-threats-freedom-expression-online-vietnam

The Blossoming of the Blogs

Of all the varied and diverse vehicles of online expression, blogging has had the deepest impact in Vietnam. Since 2005, when Yahoo! made the first blogging platform available in the country, millions of blogs have sprung up. The blog has opened up new horizons for communication, social exchange and discussion for people from all walks of life. Despite government restrictions and repression, the blog is vibrant and diversified. Bloggers in Vietnam are not necessarily dissidents or activists, but ordinary citizens who are bypassing the official media to seek information or engage in debate that is impossible in the state-controlled press.

Over the past two years, a form of "citizens' journalism" has emerged through the blogs. Sites such as *DanLamBao.blogspot.com* are exposing corruption scandals, issues of power abuse and nepotism amongst top-level Communist Party and government officials, environmental dangers of Bauxite mining, territorial disputes between China and Vietnam, human rights issues – all subjects that are heavily censored or even taboo in the official press. With a team of supporters and reporters who take significant personal risks to send immediate, first-hand reports, photos and videos on a wide range of "sensitive" socio-political issues, *DanLamBao* and others are providing a parallel media, mobilizing support on issues such as the trial of the Club of Free Journalists, and openly debating issues of human rights and democratic reform. Another influential site is *Bauxite Vietnam* (boxitvn.net/boxit.blogspot.com), set up by prominent Hanoi intellectuals Nguyễn Huệ Chi, Phạm Toàn and Nguyễn Thế Hùng, which is critical of the government's China-backed Bauxite mining projects in the Central Highlands, land rights issues and many other problems. Despite repeated attacks on the site and a government-imposed media blackout in the Central Highlands, its reporters have succeeded in keeping the public informed on the environmental and security dangers of exploiting Bauxite in this area.



On 14 October 2012, 20-year-old **Nguyễn Phương Uyên**, a student at the Ho Chi Minh City University of Food Industry was arrested at her home for writing poetry criticizing China and placing anti-China leaflets on a bridge. She then disappeared, and Police denied ever having arrested her. News of her disappearance was widely circulated by bloggers and caused widespread outrage in Vietnam. On 30 October, 144 prominent intellectuals and Party veterans sent a Petition to Vietnamese President Trương Tấn Sang demanding an immediate explanation of her disappearance. Although Uyên is not a blogger, the quick circulation of her disappearance online triggered an outpour of protest. Thanks to this pressure, three days later, Police held a Press Conference revealing that she was detained in a prison in Long An province on charges of "*anti-State propaganda*" (Article 88). Visibly shaken, Phương Uyên was shown on State-run television making a public "confession" of her crimes. Since then, she has not been allowed to see her parents. Prison wardens in Long An told her mother to bring food and money for her daughter "*because the prison does not provide enough to eat*". They took the money and food without giving her mother a receipt, and even confiscated a note saying "I love you" that she had put in her daughter's food parcel.

Despite fierce government repression, blogs are exerting a growing influence in Vietnam. For example, the question of land rights and the state's brutal confiscation of farmlands for so-called development projects have been deliberately stifled in the state-controlled press. Yet when bloggers like Nguyễn Xuân Diện posted videos of riot police violently evicting farmers from their lands, the news went viral, and Prime Minister Nguyễn Tấn Dũng was obliged to apologise and open an inquiry into the cases. In the recent case of the abduction and disappearance of 20-year-old student Nguyễn Phương Uyên by Police, the wave of outrage that flooded the Internet in Vietnam forced the

authorities to publicly admit her whereabouts, thus demonstrating the power of the blogs to channel public opinion and effectively pressure the authorities *(see box)*.

With this flow of alternative news and debate of ideas, the blogs are responding to an increasing desire among the public for non-filtered information and new ideas. They are providing a unique space in Vietnam's one-Party state where civil society, the press, religious movements and labour unions are muzzled by the Communist Party's pervasive control. By repressing bloggers and suppressing Internet freedom, Vietnam is not only violating its people's fundamental right to freedom of opinion and expression, but it is stifling the nation's intellectual development.

Legal Restrictions on Freedom of Online Expression

Article 69 of Vietnam's 1992 Constitution guarantees enshrines the right of all citizens to *"enjoy freedom of opinion and speech, freedom of the press, the right to be informed and the right to assemble, form associations and hold demonstrations in accordance with the provisions of the law"*. During its Universal Periodic Review in May 2009, Vietnam accepted recommendations by UN member states to *"fully guarantee the right to receive, seek and impart information and ideas in compliance with article 19 of the International Covenant on Civil and Political Rights."*[14]

In practice, however, freedom of expression both online and offline is seriously restricted by a whole range of domestic laws and regulations which prohibit all spoken or written expression deemed to *"threaten the interests of the State"*. Over 850 newspapers and magazines, 68 radio stations, thousands of news websites and 80 e-newspapers in Vietnam are all run by Party-controlled, military or government agencies. There is no privately-run, independent media. Vietnam's Prime Minister Nguyễn Tấn Dũng declared that *"the press should not report information that harms the country's interests"* and Vietnam's "*over 17,000 journalists should be loyal soldiers serving the nation"*[15].

Under the Minister of Public Security's "Decision 71" (2004), Internet café owners are responsible for their customers' on-line activities, and must keep records of users' ID. Decree 97 and its implementation Circular 7 (December 2008) issued by the Ministry of Information and Communication (MIC) instruct bloggers to refrain from political or social commentary in order to *"constrain propaganda against the state and limit using blogs to smear the image of the party and its governance apparatus"*. Decision 15/2010 issued by the Hanoi People's Committee orders over 4,000 Internet cafés, retail outlets and service providers in Hanoi to install government-provided "Internet Service retailers' Software" which analysts believe is a form of censorware that enables the authorities to track the activities of Internet users and block access to URLs. Media Decree 2/2011/ND-CP, which came into force in 25 February 2011, imposes heavy fines on journalists, including online journalists and bloggers, who violate the decree's overly broad and vague provisions, such as failing to abide by the requirements of the 1990 Press Law to *"provide*

14. A/HRC/12/11, Report of the Working Group on the Universal Periodic Review of Vietnam, 17 September 2009.
15. "Vietnam Journalists must serve the nation", AFP, 19 January 2010..

honest domestic and international news in accordance with the interests of the country and the people." Since this Decree was issued, investigative reporting on corruption in the official press has diminished markedly.

The Ministry of Public Security has set up a unit of "cyber-police" to track down the posting of banned material. Lt. Colonel Đinh Hữu Tân, Head of the Bureau of Internal Political Security (PA38) in Hanoi described the bureau's responsibility as "*monitoring the content of all forms of internet postings, including press articles, blogs, comment"* as well as *"exposing all activities that take advantage of the communications industry to violate the law. The bureau works together with relevant sections of the Security Police in Hanoi to address and sanction these violations*"[16].

Hundreds of blogs and websites have been closed down, and the authorities make no attempt to hide this fact. At a press conference in May 2010, Lt. General Vũ Hải Triều, Deputy Director of the Ministry of Public Security's General Department of Security announced that his department had *"destroyed 300 bad internet web pages and individual blogs"*. Since 2010, cyber-attacks against websites operated by Vietnamese bloggers or activists inside and outside Vietnam has continued systematically. In March 2010, Google and the computer security firm McAfee discovered that malicious software was being used to infect "*potentially tens of thousands of [Vietnamese-language] computers*" with keyboard software belonging to the Vietnamese Professionals' Society. The infected machines were used to spy on their owners and to carry out distributed denial-of-service (DDoS) attacks against blogs containing messages of political dissent. According to Google's findings, this cyber-attack was aimed specifically at silencing critics of the controversial, Chinese-backed bauxite mining project in Vietnam. McAfee esteemed that this was a *"politically motivated cyber-attack"* whose *"perpetrators may have some allegiance to the government of the Socialist Republic of Vietnam"* [17].

Internet users in Vietnam are legally responsible for the material they receive, as well as all content created, disseminated and stored. Under the 2004 Law on National Security (32/2004/QH11[18]), the state agency in charge of protecting national security has the right to examine computers or any other communications equipment belonging to individuals and organizations on the mere suspicion of a national security breach. As such, it also implicitly has access to encrypted data held by data-hosting providers and other service providers[19].

Because of the extremely vague wording of Vietnam's national security laws, bloggers frequently resort to self-censorship to protect themselves from government sanctions. One common method is to disable the readers' comment option beneath their articles to avoid "suspicious" comments appearing on their blogs – including postings by internet security agents (*công an mạng)* seeking to plant false evidence against them. In an article entitled *"I am victim of a plot"*, blogger Tạ Phong Tần complained that Police had held her responsible for unsolicited comments and even spams appearing on her blog and in her mail-box[20].

Recently, Vietnam has begun to deploy "state-sponsored" bloggers to support the Communist Party's policies and criticize pro-democracy activists online. Mr. Hồ Quang Lợi, Head of the Hanoi Propaganda and Education Department said that the authorities have hired hundreds of so-called "internet polemists" in the fight against "online hostile forces". His organization alone runs at least 400 online accounts and 20 micro-blogs. This tactic is similar to the Chinese model of "Internet moderators" whose aim is to control news and manipulate opinion.[21]

---

16. "Head of the Internal Political Security Bureau speaks on Internet surveillance", DanLamBao August 2012. http://danlambaovn.blogspot.fr/2012/08/truong-phong-ninh-chinh-tri-noi-bo-noi.htm1#more
17. Google Links Web Attacks to Vietnam Mine Dispute, Bettina Wassener, New York Times, 31.3.2010.
18. Ministry of Justice Website, Law on National Security (English translation) http://vbqppl.moj.gov.vn/vbpq/en/Lists/Vn%20bn%20php%20lut/View_Detail.aspx?ItemID=7310
19. 2012 Country Report on Vietnam, Business Software Alliance, http://portal.bsa.org/cloudscorecard2012/assets/pdfs/country_reports/Country_Report_Vietnam.pdf
20. "I am victim of a plot", *Tôi đang đối diện một âm mưu,* Tạ Phong Tần, http://suthatcongly.multiply.com/journal/intern/6/6.
21. "Vietnam admits deploying bloggers to support government", BBC News 12 January 2013, http://www.bbc.co.uk/news/world-asia-20982985

The new Internet Decree

In April 2012, the Ministry of Information and Communication circulated a draft of a new *"Decree on the Management, Provision, Use of Internet Services and Information Content Online"*. A draft of the Decree in its third reading was posted on the Ministry of Information and Communications' website [22], and it was expected to go before the National Assembly in June. However, the draft met with widespread criticism, and by December 2012 the Decree had still not become law.

If adopted as such, the Decree would oblige Internet companies and other providers of information to Internet users in Vietnam to cooperate with the government in enforcing a range of vaguely-defined prohibited acts of expression, in gross violation of international human rights law and standards. Article 5 of the Decree is especially problematic. Using the kind of vague Catch-22 language that is found in almost all of Vietnam's legislation concerning the rights to freedom of expression, religion, assembly and association, Article 5 prohibits vague acts as such as *"abusing the provisions and use of the internet and information on the web"* to *"oppose the Socialist Republic of Vietnam"; "undermining the grand unity of the people"* and *"undermining the fine customs and traditions of the nation"*. Article 25 requires the filtering of any information on the Internet based on the interpretation that such information is amongst the "prohibited acts" outlined in Article 5.

Earlier drafts of the Decree obliged foreign enterprises to establish representative offices or obtain legal status in Vietnam and set up servers in Vietnam, or make written commitments that the "unlawful" information will be erased and that Vietnamese users cannot have access to the violating information. However, the latest draft of the decree has apparently eased the duties of foreign companies, entitling them to set up representative offices in Vietnam or appoint Vietnamese individuals or institutions to represent them. They can also cooperate with relevant agencies and units to retract violating information. The foreign ISPs will nevertheless have to provide information about users when they are requested by investigative bodies.

Asked by Vietnam to comment on the draft, the United States Embassy in Hanoi sent a detailed reply which is posted on the website of Human Rights Watch. The American Chamber of Commerce also made public their comments on the draft[23]. Alongside concerns about the viability of requiring foreign entities to establish a commercial presence in Vietnam, which runs contrary to the current trend towards cloud-based services, the US expressed deep concern about the Decree's impact on freedom of expression online. *"Various provisions of the proposed decree, including several of the "Prohibited Conducts" listed under Article 5, are overly broad and vague, and therefore likely to negatively impact individuals' rights to freedom of expression in Vietnam. Requiring service suppliers to enforce such broad prohibitions and be subject to liability for failure to do so will likely lead to restrictions on legitimate content. The right to freedom of expression is guaranteed under Vietnam's Constitution, and Vietnam has international obligations to ensure this right"*.

Meanwhile, in a move that has attracted little international attention, Prime Minister Nguyễn

22. In English, see unofficial translation on Vietnam Committee on Human Rights website http://www.queme.net/eng/docs_detail.php?numb=1983 and in Vietnamese see Ministry of Information and Communication, Hanoi, http://mic.gov.vn/layyknd/Trang/D%E1%BB%B1th%E1%BA%A3ongh%E1%BB%8Bdinhinternet.aspx

23. US Embassy Comments on Draft Internet Decree, Human Rights Watch website http://www.hrw.org/sites/default/files/related_material/2012_Vietnam_UScomments.pdf
American Chamber of Commerce http://amchamvietnam.com/download/1764/L2Rvd25sb2FkLzE3NjQ=

Tấn Dũng's office has drafted a new decree on administrative violations of the Internet [24] which provides heavy fines for *"violations of regulations on the management, provision and use of internet services and information online which are not criminal offences, but are considered by law to merit administrative sanctions"*. This Decree, which is expected to be adopted by the National Assembly and come into force in July 2013, will replace Decree 28/ND-CP of 2009. It provides for fines of up to 70 million dongs (US$ 3,400) for vaguely-defined prohibited acts such as *"posting material on the Internet which is false, inconsistent with the interests of the state or inconsistent with Vietnam's fine customs and traditions"*. The fines are astronomically high for a country in which the average wage is less than US$ 185 per month, and it reinforces the authorities' legal framework for suppressing freedom of online expression in Vietnam.

National Security Laws

Most bloggers and cyber dissidents imprisoned in Vietnam are sentenced under vaguely-worded "national security" provisions in the Vietnamese Criminal Code (see Annex I). These provisions, which make no distinction between acts of violence such as terrorism, and the peaceful expression of dissenting opinions or beliefs, restrict and even nullify the guarantees of freedom of expression guaranteed in Vietnam's Constitution and in the UN human rights treaties to which it has acceded[25]. The restrictions these provisions impose on the right to freedom of expression fail to meet the strict tests of legality, proportionality and necessity.

Bloggers are generally charged under Article 88 of the Criminal Code on *"conducting propaganda against the Socialist Republic of Vietnam"*, which carries terms of 3 to 20 years in prison for vaguely-worded offences such as *"spreading fabricated news in order to foment confusion among the people"* or *"making, storing and/or circulating documents and/or cultural products with contents against the Socialist Republic of Vietnam"*. Other provisions include Article 258 on *"abusing democratic freedoms to encroach on the interests of the state"* which carries up to 7 years in prison. Religious followers are often detained under Article 87 on *"undermining national solidarity, sowing divisions between religious and non-religious people"*. Since 2010, several peaceful pro-democracy activists who used the internet to circulate their appeals for reform have been convicted under Article 79 on subversion, or *"activities aimed at subverting the people's power"*, which carries the death penalty as a maximum sentence. On 9 January 2013, a group of 14 bloggers and activists were condemned under Article 79 to a total of 113 years imprisonment and house arrest for acts of peaceful dissent.

Since 1994, when the UN Working Group on Arbitrary Detention first visited Vietnam, the United Nations has repeatedly called for the revision or repeal of these national security laws[26]. Not only has Vietnam has taken no heed, but it has intensified the use of these laws to suppress political and religious dissent.

---

24. "Regulating Punishments for Administrative Violations of the Management, Provision, Use of Internet Services and Information Content Online" Website, Ministry of Information and Communication accessed November 2012 http://mic.gov.vn/layyknd/Trang/D%E1%BB%B1th%E1%BA%A3oNgh%E1%BB%8B%C4%91%E1%BB%8BnhQuy%C4%91%E1%BB%8Bnhx%E1%BB%ADph%E1%BA%A1tviph%E1%BA%A1mh%C3%A0nhch%C3%ADnhtrongqu%E1%BA%A3nl%C3%BD,cungc%E1%BA%A5p,s%E1%BB%ADd%E1%BB%A5ngd%E1%BB%8Bchv%E1%BB%A5Internetv%C3%A0th%C3%B4ngtintr%C3%AAnm%E1%BA%A1ng.aspx

25. Vietnam is a state party to the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child.

26. See *Visit to Vietnam :* UN Working Group on Arbitrary Detention, E/CN.4/1995/31, Add. 4; Report on a Visit to Vietnam by Dr. Abdelfattah Amor, UN Special Rapporteur on Religious Intolerance, E/CN.4/1999/58/Add. 2; UN Human Rights Committee, Concluding Observations CCPR/CO/75/VNM, 28 July 2002.

The Vietnamese government justifies its arrests of dissidents by arguing that they are not detained for their opinions but because *"they have violated Vietnamese law"*. The UN Working Group on Arbitrary Detention rejected this argument in Opinion 27/2012 adopted at its 64th Session in August 2012. Considering the cases of pro-democracy activists Lê Công Định, Trần Huỳnh Duy Thức, Nguyễn Tiến Trung and Lê Thăng Long, the UNWGAD underlined:

> *"in conformity with its mandate, [the UNWGAD] must ensure that national law is consistent with the relevant international provisions set forth in the Universal Declaration on Human Rights or in the relevant international legal instruments to which the State concerned has acceded.* ***Consequently, even if the detention is in conformity with national legislation, the Working Group must ensure that it is also consistent with the relevant provisions of international law"*** *(our emphasis)* [27].

Repression of Bloggers and Netizens

Whereas government censorship of the Internet has continued consistently over the past decade, since 2010 there has been a significant escalation in the numbers of netizens arrested, imprisoned or subjected to harassments and assaults. Vietnam is seemingly seeking to silence its critics by allying censorship and self-censorship, using repression to create a pervasive climate of fear in which no-one dares to speak out. In the following sections, FIDH and the Vietnam Committee on Human Rights provide non-exhaustive case studies of the on-going and escalating persecution of individuals exercising their right to freedom of expression using Internet technology, including blogs.

Arbitrary Detention

Bloggers are subjected to a whole range of repressive measures including detention, house arrest, denial of right to due process of law, ill-treatment in prisons, forced shutting down of blogs, and physical assault and intimidation against themselves and their families. Over the past two years, arrests of bloggers under charges of "national security" violations have intensified significantly, making Vietnam the world's second largest prison for "netizens" after China, according to Reporters Without Borders. According to the findings of the FIDH and the VCHR, as of writing, 33 people have either been sentenced or are awaiting trial for their peaceful use of the Internet.

In January 2011, blogger and writer **Vi Đức Hồi**, a former member of the Vietnamese Communist Party, was sentenced to eight years in prison (reduced in April to five years in jail and three years house arrest) under Article 88 for writing articles on government confiscation of land and criticizing the one-Party state. In April 2011, **Cụ Huy Hà Vũ**, one of Vietnam's most prominent legal activists, was sentenced to seven years in prison and three years house arrest in Hanoi (also under article 88) for calling for multi-party democracy in articles on the Internet. In March 2012, he was moved from Hoa Lo Prison in Hanoi to Prison Camp No. 5 in Thanh

Cụ Huy Hà Vũ

27. Opinion 27/2012, UN Working Group on Arbitrary Detention, A/HRC/WGAD/2012/27, adopted at the Working Group's 64th Session, 27-31 August 2012, General distribution 30 October 2012.

Hoa, without any explanation to his family. The Camp is in the depths of a mountainous region some 200 kilometers from his home, which makes visits from his family extremely difficult. The Camp is also notorious for holding violent common criminals.

Lê Văn Sơn (left, white shirt) and others at their trial on 8 January 2013. Photo VNRs.

In a crack-down in July-August 2011, a group of young Catholic bloggers and activists were arrested, mostly from the Congregation of the Most Holy Redeemer. Several members of the group, known as Redemptorist, including Hồ Đức Hòa, Đặng Xuân Diệu, Nguyễn Văn Duyệt, Nông Hùng Anh, Nguyễn Văn Oai and Lê Văn Sơn, were charged with "subversion" (Article 79, which carries the death penalty as maximum punishment). They had written articles on the Internet, including a petition to free Cụ Huy Hà Vũ which also criticized Article 88 of the Penal Code for its unlawful restrictions on freedom of expression. Whereas most of the group was detained in B14 Prison in Thanh Liet, Lê Văn Sơn, 27, who wrote for the Redemptorist News, was transferred to No. 1 Prison camp in Hanoi in July 2012 without any notification to his family. He has only been allowed two visits from relatives since his arrest over 18 months ago. His uncle says that that No.1 Prison is filthy and overcrowded. Lê Sơn's mother fell gravely ill during his detention and Sơn, who is an only child, asked to visit her. His request was refused and his mother has since died, although his uncle has not dared to tell him the news. The group of 14 young bloggers were condemned to extremely harsh sentences at their trial at the Nghệ An People's Court in Nghệ An on 8-9 January 2013, totalling over 100 years in prison. on 8 and 9 January 2013. Lê Văn Sơn, Hồ Đức Hòa and Đặng Xuân Diệu were sentenced to 13 years in prison and five years house arrest. Ten others received prison terms from three to eight years, and one received a suspended sentence.

Democracy activists (from left to right) Trần Hùynh Duy Thức, Nguyễn Tiến Trung, Lê Thăng Long and Lê Công Định on trial at Ho Chi Minh City People's Court on 20.1.2010.

In September 2011, blogger **Lư Văn Bảy** was sentenced to four years in prison by a court in Kien Giang for his pro-democracy writings (Article 88). Bloggers and pro-democracy activists **Trần Huỳnh Duy Thức**, human rights lawyer **Lê Công Định** and **Nguyễn Tiến Trung**, who were sentenced respectively to 16, five and seven years in prison in January 2010 for "subversion" (article 79), remained in prison, although one of their colleagues, Lê Thăng Long, was released in June 2012. The group had simply advocated democratic reforms via the Internet. In August 2012, the UN Working Group on Arbitrary Detention declared their detention to be a violation of international law (Opinion 27/2012).

In October 2011, land rights activist **Nguyễn Ngọc Cường**, was sentenced to seven years in jail by the People's Court of Đồng Nai under Article 88. His son, **Nguyễn Ngọc Tường Thi** received a two year sentence for helping him. Nguyễn Ngọc Cường was accused of founding an Internet forum called "Vietnam and Today's Issues" which urged people to "*distort the policies of the state and the party*". He had also distributed leaflets on the national highway criticizing Bauxite mining projects and China's claims to the disputed Paracel and Spratly islands. He had invented a machine to spray leaflets from his motorbike. His son, who has since been released, said that his father is subjected to discriminative treatment in prison. He is not allowed to make phone calls or receive regular visits from his family like common criminals in the prison.

On 27 November 2011, blogger and human rights activist **Bùi Thị Minh Hằng**, 48, was arrested outside Notre Dame Cathedral in Ho Chi Minh City as she participated in a silent vigil to protest the arrest of peaceful demonstrators in Hanoi on the same day. She was accused of *"disturbing public order"*. The next day, the Hanoi Municipal People's Committee condemned her to two years of "administrative detention" under Ordinance 44, which authorises detention without trial under house arrest, in re-education centres or in psychiatric hospitals. She had no opportunity to contest the decision in a court. Bùi Thị Minh Hằng was sent the next day to Thanh Hà "education centre" (in reality a re-education or forced labour camp) in Bình Xuyên district, Vĩnh Phúc province. She was detained under such harsh conditions that her son wrote to

Bùi Thị Minh Hằng

the Red Cross to demand their urgent intervention[28]. Her lawyer Hà Huy Sơn was not allowed to visit her. After strong pressure from the international community, Bùi Thị Minh Hằng was eventually set free on 29 April 2012, after five months in detention without trial.

Another victim of the spurious "Ordinance 44" is engineer and pro-democracy activist **Nguyễn Trung Lĩnh,** who posted articles calling for multi-party democracy on the Internet. He was arrested in Hanoi by a group of Security Police in October 2011 and has not been seen since. According to reports, he has been interned in the Hanoi Central Psychiatric Hospital. Blogger Nguyễn Khắc Toàn, who went to Lĩnh's home to find out, said that his wife was terrified. She said that Police had warned her never to speak to anyone about her husband, before slamming the door in Toàn's face [29].

Nguyễn Trung Lĩnh

In 2012, this repressive trend continued. In March, blogger and activist **Lô Thanh Thảo**, 36, was arrested in Saigon as she interviewed farmers protesting state confiscation of lands by Skype Voice. She was charged under Article 88 and detained in the Security Police Investigation Prison in Saigon. Blog X-Café described her as the "forgotten prisoner" since hardly any information had circulated on her case[30]. She was finally put on trial on January 8, 2013 and sentenced to three-and-a-half years in prison and two years house arrest.

Lô Thanh Thảo

Blogger **Đinh Đặng Định**, a former police officer and high school teacher, was sentenced in August 2012 to six years in prison in Dak Nong for exposing official corruption and criticizing bauxite-mining in the Central highlands (Article 88). His sentence was upheld on appeal on 21 November 2012 in a trial that lasted only 45 minutes. Đinh Đặng Đinh has fallen seriously ill in prison. His wife Đặng Thị Dinh reports that he is suffering from a stomach hemmorrhage and is very pale and weak. He told her during a recent visit that when he asked for medical access he was not only refused treatment but a dozen camp officials beat and strangled him. She is very concerned about his health.

Đinh Đặng Định

In the same week of August, blogger **Nguyễn Thanh Tùng** was sentenced to five years in prison and four years house arrest at a trial that lasted only one hour. He was sentenced under Article 88 for posting articles calling for multi-party democracy and human rights between August 2009 and October 2011. On 24 September 2012, bloggers **Điếu Cày, Tạ Phong Tần and Phan Thanh Hải** were sentenced to 12, 10 and four years prison respectively *(see below)*.

On 30 October, singers and composers **Võ Minh Trí** (better known as Việt Khang) and **Trần Vũ Anh Bình** (Hoàng Nhật Thông) were sentenced respectively to four and six years in prison followed by two years probationary detention by the Ho Chi Minh City People's Court under Article 88. They were arrested in September and December 2011 for writing protest songs about social injustice and Vietnam's relations with China that circulated on the Internet and become wildly popular with young people in Vietnam.

Songwriters Việt Khang and Nguyễn Vũ Anh Bình

On 31 October and 2 November 2012 blogger **Nguyễn Thiện Nhân** was detained for questioning by Police in Bình Dương province and subsequently placed under house arrest for writing articles on his blog (giaiphapdanchu.wordpress.com) entitled *"How to liberate the people of*

28. Letter from Bùi Nhân, son of Bùi Thị Minh Hằng to the Red Cross, 9 January 2012.
29. "Engineer Nguyễn Trung Lĩnh has been interned in the Hanoi Central Psychiatric Hospital for the past 5 months!" by Nguyễn Khắc Toan (in Vietnamese). http://www.trinhanmedia.com/2012/04/ky-su-nguyen-trung-linh-bi-cong-bat.html
30. Lô Thanh Thảo, the forgotten prisoner, http://www.x-cafevn.org.

Vietnam?" Police warned that he may soon be arrested for *"propaganda against the state"* (Article 88). Police briefly detained Nguyễn Thiện Nhân when he came to support bloggers Điếu Cày and the Club of Free Journalists at their trial in Ho Chi Minh City on 24 September 2012. When he began to take photos of Police arresting demonstrators, they confiscated his cell phone and told him he must not engage in "citizen journalism".

Lê Quốc Quân, born 1971**,** a lawyer, blogger and human rights defender, was arrested on December 27, 2012 in Hanoi as he was taking his daughter to school. He is charged with "tax evasion" under Article 161 of Vietnamese Criminal Code. If condemned, he risks three years in prison and a heavy fine. Lê Quoc Quân staged a hunger strike in prison on December 28 to protest his arbitrary detention. He is currently detained in Hỏa Lò Prison No. 1 in Hanoi. Two other members of his family, his brother Lê Đình Quản and his cousin Nguyễn Thị Oanh have also been arrested on the same charge. Mrs Oanh, who is pregnant, has been detained incommunicado since December 5, 2012. They both work for the firm VietNam Credit, which belongs to Lê Quốc Quân and his family.

Lê Quốc Quân has been harassed constantly since 2007, since he went to the USA on a fellowship with the National Endowment for Democracy. Only four days after his return, he was arrested on suspicion of engaging in 'activities to overthrow the regime'. He was finally released after 100 days in prison, but no longer permitted to leave Vietnam. He was also disbarred and forbidden exercise as a lawyer. Despite this, he continued to blog on issues of human rights, democracy and social justice and take part in demonstrations denouncing Chinese encroachments on Vietnamese territories.

On 18 August 2012, Lê Quốc Quân was brutally beaten by two unidentified men with iron bars outside his home in Hanoi. He was hospitalized for several days after the attack. On 3 October 2012, some 50 Security Police and plain-clothed militia forced entry into the offices of VietNam Credit in Hanoi and Saigon. They seized files and documents, aggressed the staff and subsequently arrested his brother Lê Quốc Quản.

Similar trumped-up charges of "tax evasion" were used to detain blogger Điếu Cày in 2008 *(see report)*. Dissidents believe that Vietnam is increasingly resorting to such charges to avoid international outcry against the government's detention of dissidents simply for the exercise of their legitimate rights to freedom of expression.

Harassments, Assaults and Intimidation

Bloggers and their families live in a permanent climate of fear. They are frequently subjected to physical attacks, often by State-hired local thugs or plain clothed security agents. Bloggers **Nguyễn Hoàng Vi**, **Bùi Thị Minh Hằng, Huỳnh Thục Vy, Huỳnh Ngọc Tuấn,** poet **Bùi Chát,** intellectual **Hà Sĩ Phu** and the ex-wife of blogger Điếu Cày **Dương Thị Tân** and her son **Nguyễn Trí Dũng** have all been subjected to harassments, interrogations, threats or physical assaults such as beatings, fake "car accidents" etc. **Trịnh Kim Tiến**, 22, who began blogging on issues of Police violence and power abuse after her father died on 28 February 2011 from beatings in Police custody for a minor traffic offense, reports that she receives frequent threatening phone calls. She described this harassment as *"spiritual and mental torture"*[31].

31. *"Vietnam's press freedom shrinks despite open economy"*, Committee to Protect Journalists, 19.9.20122 - http://www.cpj.org/reports/2012/09/vietnams-press-freedom-shrinks-despite-open-economy.php

Huỳnh Thục Vy

Huỳnh Ngọc Tuấn

Another form of harassment against bloggers is Vietnam's frequent denial of the right to freedom of movement. In 2012, bloggers **Huỳnh Ngọc Tuấn** and his daughter **Huỳnh Thục Vy** were amongst five Vietnamese bloggers awarded the Hellman-Hemmet prize for persecuted writers. As **Huỳnh Trọng Hiếu** set off to accept the prize on behalf of his father and sister, he was intercepted at Tân Sơn Nhất airport and banned from travelling to the United States. Security Police detained him for two hours of intensive interrogations, threatened him rudely, and confiscated his plane ticket and passport. *"You are in our hands now. You have no rights at all"*, they told him. After Hiếu protested strongly, they gave him a Police Order that stated he was banned from travelling because he had committed *"administrative violations concerning information and communications"*, without any precisions on the nature of his acts. Blogger **Bùi Thanh Hiếu** (blog name Người Buôn Gió – the Windtrader) was also banned by Police from travelling to Thailand in February 2012. No clear reason was given for the ban. He had been briefly detained in November 2011 for participating in anti-China demonstrations in Hanoi.

Dr. Nguyễn Xuân Diện

Dr. Nguyễn Xuân Diện, a blogger and scholar at the Institute of Hán-Nôm Studies in Hanoi, received death threats when six men posing as "war invalids" broke into his office on 18 May 2012. His live-blogging of land protests, especially the photos and videos of thousands of riot police evicting peasants in Văn Giang, Hưng Yên province to build a massive development project (Ecopark) in April 2012 were taken up widely by bloggers and media in Vietnam and around the world. In June, a "Top Secret" report dated 19 May 2012 was leaked on the Internet on a meeting chaired by Deputy Prime Minister Nguyễn Xuân Phúc in which government officials were instructed to "settle" this affair. They concluded that Nguyễn Xuân Diện had published *"slanderous and false"* information on his blog which *"disturbed public order and negatively impacted Vietnam's diplomatic relations with foreign countries"*. The Deputy Prime Minister ordered the Ministry of Information and Communications (MIC) to close down the blog, and the Ministry of Public Security to investigate his blogs on the Văn Giang land protests in order to ***"undermine and destroy the credibility and prestige of Nguyễn Xuân Diện and be ready to apply criminal sanctions when necessary".*** The MIC officially closed down the blog in June. On 19 September, Diện received Decision 91/QD-CC from the Inspections Office of the Hanoi Information and Communications Department ordering him to pay a fine of 7 ½ million Vietnamese dongs (US$ 375) for *"making use of a personal blog to circulate information harmful to public order"*. He intends to protest the order, and refuses to pay the fine.

Thích Quảng Độ

Buddhist monk and prominent dissident **Thích Quảng Độ**, leader of the outlawed Unified Buddhist Church of Vietnam (UBCV) is under house arrest without trial for circulating petitions on the Internet challenging the government on a wide range of issues including religious freedom, bauxite mining, disputes with China over sovereignty of the Spratly and Paracel islands, the death penalty and appeals for democratic reforms. He is denied freedom of movement, communication and other citizenship rights such as the obligatory residence permit or *hộ khẩu,* without which one is an illegal citizen.

Bloggers in prison are routinely subjected to discriminative treatment and harsh detention conditions. Writer **Nguyễn Xuân Nghĩa**, who is currently serving a six year sentence in Prison Camp No. 6, Thanh Chương in Nghệ An Province for *"propaganda against the state"*, is in very poor health because of ill-treatment and insufficient nourishment. Suffering badly from

haemorrhoids, he was allowed to undergo surgery at the local hospital on 15 November 2012. He was held in handcuffs and leg-irons until the operation began, and as soon as it was over, Police began to chain his legs again. He was in such pain that he cried out. His wife protested strongly and managed to prevent them from shackling him, but they nevertheless transported him straight back to the camp. The UN Working Group on Arbitrary Detention pronounced Nguyễn Xuân Nghĩa to be a victim of arbitrary detention (Opinion 1/2009) and called for his release.

Writer Nguyễn Xuân Nghĩa

Blogger and land rights activist **Hồ Thị Bích Khương,** 45, who is currently serving a five-year sentence under Article 88 for "circulating anti-State propaganda", was "savagely beaten" by other female inmates in K 4 section of Women's Prison No. 5 in Yên Định, Thanh Hóa province in April 2012. She had to be taken into the camp hospital after the beating. In a letter smuggled out to her sister, she said she had been singled out for discriminative treatment and feared she might die in prison. This is the third time in seven years that she has been imprisoned for her writings and activism in support of dispossessed farmers and peasants. Her latest sentence of five years prison and three years house arrest was confirmed on appeal on 30 May 2012 by the People's Court in Nghệ An province because she refused to plead guilty and demand the clemency of the court.

The Club of Free Journalists: Bloggers Điếu Cày, Tạ Phong Tần and Phan Thanh Hải

The case of these three bloggers, from their arrest and detention to their trial on 24 September 2012, resumes every aspect of Vietnam's arbitrary judicial system and the extreme repression faced by bloggers as a result of the peaceful exercise of their right to freedom of expression or opinion.

Arbitrary detention: All three bloggers were held in pre-trial detention well beyond the 4-month limit stipulated in the Criminal Procedures Code (Article 120) which can only be extended under *"especially serious offences"*. **Điếu Cày** (Nguyễn Văn Hải), 60, was first arrested in 2008 and detained for 30 months on trumped-up charges of tax evasion. Instead of releasing him after he completed his sentence on 19 October 2010, the authorities accused him of a second crime of *"circulating propaganda against the Socialist Republic of Vietnam*" (Article 88). For the next 23 months, he was detained incommunicado. His family had no news of his whereabouts until February 2012, just before the trial was expected to take place. Two other members of the Club of Free Journalists, Ms. **Tạ Phong Tần**, 44, a former Police officer and member of the Vietnamese Communist Party and **Phanh Thanh Hải**, 43, a lawyer and independent online journalist, were also detained in gross violation of Vietnamese law. Tạ Phong Tần, who ran a popular blog entitled *"Truth and Justice"* denouncing corruption and power abuse in the police force and human rights violations in Vietnam, was subjected to repeated Police harassments before her arrest in September 2011. Her family was also subjected to pressure. Police repeatedly pressed her mother, Mrs Đặng Thị Liêng, to denounce her daughter's crimes. She refused, and finally immolated herself in protest outside the People's Committee headquarters in Bạc Liêu on July 30th 2012. **Phan Thanh Hải** blogged under the name Anh Ba Saigon. Ironically, one of the articles posted on his blog before his arrest in October 2011 denounced the illegality of Article 88 of the Criminal Code, under which he is now detained *(see extract)*.

Discriminative Detention Conditions: Although they were not convicted criminals, the three bloggers were subjected to prison conditions far worse than other inmates during their pre-trial detention. Whereas all prisoners are allowed to receive at least two million Vietnamese dong (around US$96) per month from their families, they were allowed only 500,000 dong. This is barely enough for survival. In Vietnam, the prison provides only starvation rations, and prisoners must pay for extra food or basic necessities (soap, toothpaste etc.) out of their own pockets. Food must be purchased in the prison canteens, where police-set, exorbitant prices

reach 400,000 dong for a kilo of sugar or 25,000 dong for a can of condensed milk. Điếu Cày told his lawyer that one of the prison officials, Lt-Colonel Hoàng Văn Dũng, told him: *"We will destroy your health and make sure you die here in prison"*.

Pending his appeal trial, Điếu Cày was detained in Section AB of Chí Hòa Prison in Ho Chi Minh City, which is a section reserved for prisoners serving heavy sentences and on death row. He was subjected to intense psychological pressure, was only allowed very rare visits from his family, and was not allowed to meet his lawyer to prepare his appeal.

Điếu Cày at his trial. The caption on state-run TV says: "Trial for anti-state propaganda"

Unfair Trial: The trial of the three bloggers was delayed three times. Initially planned for April 2012, it was first delayed because the Public Security Service, the People's Procuracy and the Court could not agree on the length of the sentences – the Public Security Service wanted extremely heavy sentences (up to 16 years), whilst the Procuracy and the Court sought lighter terms. In any case, their guilt was a foregone conclusion. Re-scheduled for May, the trial was postponed at the last minute after US President Obama raised the case of Điếu Cày in his speech on International Press Freedom Day. The final delay came on 30 July, after the immolation of Tạ Phong Tần's mother Mrs. Đặng Thị Liêng.

When the trial finally took place on 24 September 2012 at the Ho Chi Minh City People's Court, it was marred by grave procedural irregularities that blatantly contravened all standards of fairness and impartiality. The trial was closed to the public, members of the family were barred from entry, and the presence of the media and diplomatic observers was restricted. Trial observers from international organizations such as Media Defence Southeast Asia were refused entry and harassed by plainclothes police outside the Court[32]. Hundreds of Security Police intercepted, beat and arrested dissidents and bloggers who sought to access the court or waited outside to show support. At least 12 bloggers were taken into custody. Mr. Dieu Cay's ex-wife and son were arrested on their way to the trial, and members of the secret police prevented his youngest daughter from leaving her home to attend it. All cell phone access was blocked in the court's vicinity and the prominent blog *Dan Lam Bao* (Citizen Journalism), which posted hour-by-hour reports on Police repression and other developments outside the Court was fire-walled.

The rights to defence and equality of arms were also infringed as the Court cut off the microphone when Điếu Cày spoke to defend himself; the Court rejected his lawyer's demand to call witnesses for the defence; the Court failed to produce any of the 26 articles on Điếu Cày's blog that formed the basis of the charges of *"anti-Socialist propaganda"*; the defence lawyers were not provided with the full file of accusations, and received no notification from the judges until the morning of the trial itself. After a hearing that lasted a mere five hours, Điếu Cày was sentenced to 12 years in prison and five years of house arrest, Ms. Tạ Phong Tần to 10 years in prison and five years of house arrest and Phan Thanh Hải – the only one who "confessed" his crimes and asked for the clemency of the Court – to four years in prison and three years of house arrest.

In a statement issued on 25 September 2012, the UN High Commissioner for Human Rights, Navi Pillay, deplored that *"the harsh prison terms handed down to bloggers exemplify the severe restrictions on freedom of expression in Viet Nam"*. She added that the verdict *"undermine[d] the commitments Viet Nam has made internationally, including during the Universal Periodic Review to protect and promote the right to freedom of expression"*.

Disregarding strong international condemnation of this unfair trial, the Vietnamese authorities

32. *"Observers denied access to court as bloggers sentenced to long jail terms"*, Media Legal Defence Initiative, 25.9.2012. http://www.mediadefence.org/news-story/observers-denied-access-court-bloggers-sentenced-long-jail-terms

held the appeal trial on 28 December 2012 under exactly the same conditions. On the day of the trial, hundreds of Security Police blocked the approach roads to the Supreme People's Court, arresting and beating bloggers who came to show their support. No members of the defendant's families were allowed into Court. Điếu Cày's son Nguyễn Trí Dũng was arrested, along with bloggers Hành Nhân (Vũ Sỹ Hoàng) and Ms. Nguyễn Hoàng Vi. The latter were both severely beaten by Police, and Nguyễn Hoàng Vi suffered a sexual assault during her detention *(see box)*. The sentences of 12 and 10 years were upheld against Điếu Cày and Tạ Phong Tần, who maintained their innocence. Phan Thanh Hải, who pleaded guilty, had his four-year jail term reduced to three years.

Blogger **Ms. Nguyễn Hoàng Vi,** 25, (pen name An Đỗ Nguyễn) was arrested by Police at 8.00am on 28 December 2012 for an "identity check" as she sat in the park opposite the Hồ Chí Minh City People's Court on the day of Điếu Cày's appeal trial. She was taken to the Police station in Nguyễn Cư Trinh Ward. Police seized her mobile phones, identification documents and cash whilst beating her savagely. They accused her of hiding "illegal exhibits" inside her body, and ordered her to take off her clothes for a vagina cavity search. When she refused, a group of female agents forcibly stripped her whilst male officers videotaped the scene. Then four of the women held down her arms and legs and forced their fingers into her private parts, whilst male officers looked on. *"In my pain and suffering, I could only scream out for help but these people showed no reaction"*. She vomited profusely afterwards, and had trouble urinating.

Nguyễn Hoàng Vy after her ordeal.
Photo courtesy of VNRs

When Police told her to get dressed, she again refused, saying that she would go out naked to show people how she had been treated by Police. Police forcibly dressed her *(backwards, see photo),* and she was released that evening. On 4 January 2013, Nguyễn Hoàng Vi filed a formal complaint against the Security Police of Nguyễn Cư Trinh Ward for ***"arbitrary arrest, torture and humiliation",*** accusing them of kidnapping, beating, torture and ***"violating the right of inviolability of my body, honour and dignity".***

This is not the first time Vi has suffered aggression for her writings on anti-China protests and other issues. In October 2011, she was knocked off her motorcycle in a so-called "car accident". In July 2012, as she and four others drove home from a birthday party of bloggers in Saigon, security agents smashed the car's windows, causing her deep cuts on the arms, legs and face. On 24 September 2012, she was again detained and harassed for demonstrating outside the trial of the Club of Free Journalists in Saigon. Her passport was confiscated in April 2012, and she is now prohibited from travelling abroad.

The Case of *Dân Làm Báo* – "Citizens' Journalism"

On 12 September 2012, Prime Minister Nguyễn Tấn Dũng issued Administrative Order No. 7169/VPCP-NC on "Sanctions against information opposing the Party and State". The order particularly targeted three dissident blogs, *Danlambao* (Citizens' Journalism), *Quanlambao* (Mandarins' Journalism) and *Biendong* (East Sea, the Vietnamese name for the South China Sea), accusing them of *"publishing distorted and fabricated articles"* aimed to slander Vietnam's leadership and *"incite people to oppose the Party and the State and cause suspicion and mistrust in society"*. The order directed the Ministry of Public Security and the Ministry of Information and Communications to severely sanction those responsible for the sites and all their associates. *"This is a wicked plot orchestrated by hostile forces"* it said, prohibiting all Ministries, state agencies, local officials and party

cadres from visiting the sites and from *"reading, using, or disseminating"* any information from them.

The Order was apparently issued in reaction to articles on the blogs reporting a suspected power struggle within the leadership elite following the arrest of one of Vietnam's richest banking tycoons, Nguyễn Đức Kiên. They suggested that detention of the banker, who is said to be close to the prime minister and his daughter, was the result of tensions between the prime minister and the president. Of the three targeted sites, *Danlambao* publishes a wide range of news including political and human rights issues, *Quanlambao* focuses on the private lives of the prime minister and other top officials, and *Biendong* reports on Vietnam's relations with China and the disputes over territorial waters and lands.

Danlambao replied immediately by posting on its site an "Editorial Letter in response to the Prime Minister's Gag order 7169" *(see extracts)*. Rather than intimidating the site's readers, the Prime Minister's order had the opposite effect. *Danlambao*'s page views almost doubled from 280,000 to 500,000 the following day. So far, the government has not taken steps to implement the order, although intimidation and harassments against bloggers have increased[33]. However, it is an ominous warning and it prepares the ground for a future crackdown. *Danlambao*'s editorial team continues to work under anonymity and they do not reveal their exact location because of the risk of arrest. Under Article 88 of the Criminal Code, they face up to 20 years in prison for *"propaganda against the State"*.

In Their Own Words: Extracts from the Blogs

The following selected extracts from the writings of bloggers, many of which have led to their imprisonment or Police surveillance for *"propaganda against the State"*, show without doubt that Vietnam is violating its own Constitution which guarantees freedom of opinion, expression and freedom of the press. They also illustrate the Government's groundless and outlandish claims that these peaceful expressions of political and other opinion undermine "national security". As the UN Working Group on Arbitrary Detention declared in Opinion 27/2012: ***"the holding and expressing of opinions, including those which are not in line with official Government policy, are protected under Article 19 of the International Covenant on Civil and Political Rights".***

"Letter from the Club of Free Journalists, December 2007"

Dear readers, colleagues and friends,

As most of you know, the Club of Free Journalists is exactly three months and 12 days old. Needless to say, its first steps were wobbly and unsure, and we have undoubtedly made many errors in our efforts to bring you timely and credible news. We recognize our shortcomings and will make every effort to fulfill our objectives of **Freedom, Truth and Objectivity** in reporting the burning issues that concern our society today.

33. Harassments against the family of blogger and lawyer Lê Quốc Quân, 3 October 2012. http://danlambaovn.blogspot.fr/2012/10/cong-bao-vay-doanh-nghiep-cua-gia-inh.html#more

With passion, patriotism and a will to serve our country, we vow to work alongside the people, especially those who are the poorest and most in need. We are committed to objectivity and not motivated by profit. However, reporting truthfully is a difficult and often very dangerous task in Vietnam. Besides the problems of carrying out our job of "reporters-without-press-cards", we are constantly confronted by forces bent on stifling our voices. We are regularly harassed, molested, threatened, slandered and even physically assaulted in broad daylight. Such treatment is blatantly illegal. Therefore, and since the government insists that the people must *"live and work according to the Constitution and the law"*, we, as citizens of Vietnam, pledge to denounce these anti-constitutional and unlawful deeds. We appeal for the support of all Vietnamese who have a conscience and who care about the destiny of their country and people. We promise to do our utmost to uphold **freedom of expression** and ensure that **the truth** is fully exposed.

Điếu Cày and the Club of Free Journalists, *30 December 2007*, (http://blogdieucay.blogspot.com). *Only a few months after this letter was written, on 19 April 2008, Điếu Cày was arrested for "tax evasion" and sentenced to 30 months in prison. In fact, as his lawyer Lê Công Định demonstrated, Điếu Cày did not commit tax evasion. Rather, it was the police who ordered the tax department not to receive any overdue tax from Điếu Cày without police permission. The request was made as early 25 February 2008. In other words, the tax fraud case was a trap set up for Điếu Cày months before his arrest. Lawyer Lê Công Định himself would be arrested just one year after on charges of attempting to overthrow the state. Điếu Cay was not released after completing his sentence in 2010, and now faces another 12 years in jail.*[34]

A pair of handcuffs representing Article 88 - Cartoon by Danlambao

"The crime of lèse-majesté and Article 88"

Phan Thanh Hải

In his book "The Spirit of Laws" published in 1748, Montesquieu wrote *"In China, disrespect for the King is punishable by death. Because the law makes no clear definition of what acts are classed as disrespectful, anything can be used as a pretext to execute people whom the monarchy dislikes… The concept of lèse-majesté is so vague that it can turn rulers into autocrats.*

In Vietnam we have a similarly vague law. It is called Article 88 of the Vietnamese Criminal Code on *"spreading propaganda against the Socialist Republic of Vietnam"*…. I believe that Article 88 should be revised, or better still, be repealed. In reality, most people detained under Article 88 believe that they were only doing what they thought was right. They acted out of love of their country, yet they were imprisoned for opposing their country…. Do we have the right to call for the abrogation of Article 88? I say that we do. As citizens who have voted

34. See "Abusing laws to jail a blogger in Vietnam", Southeast Asia Press Alliance http://www.seapabkk.org/seapa-campaigns/impunity/100710-abusing-laws-to-jail-a-blogger-in-vietnam.html

for our elected representatives, we are entitled to petition the National Assembly and urge them to repeal any laws that are useless, obsolete, or which go against the people's interests. This is our right.

Phan Thanh Hải (blog name Anh Ba Saigon, http://anhbasg.multiply.com) *Born in 1969, Phan Thanh Hải studied law, but was refused a license to practice in 2009 because he took part in anti-China demonstrations. He is detained under Article 88, sentenced on 24 September 2012 to four years in prison and three years house arrest. The prison term was reduced on appeal to three years on 28 December 2012.*

"I am victim of a plot"

Tạ Phong Tần

Everybody knows that I don't belong to any organization or political party. I don't call for the overthrow of the regime and I have violated no laws. I am just a journalist, a free-thinker who writes about things I see and hear. I analyze the problems of society from my own point of view, I say what I think is wrong with our government. I denounce anything I believe is unjust, things that my friends and I have suffered directly, and I speak out for ordinary people who are victims of injustice. That is why the government wants to silence me. The Police tell me I'm not allowed to write about anything connected to the state. But the state controls every aspect of our social and private lives, so whatever I say is bound to be connected to it. Even an article I wrote on my blog about a dream I had ("Last night I dreamed I met Karl Marx") was classified as "slanderous". So the state even controls our dreams. The people are only allowed to dream what the State tells them to!

Tạ Phong Tần *(blog Truth and Justice, http://conglysuthat.blogspot.com) Posted on her blog on 4 April 2010. She was arrested on 5 September 2011 and sentenced to 10 years in prison and five years house arrest on 24 September 2012.*

"The Country's Destiny is in Our Hands!"

Nguyễn Ngọc Như Quỳnh (blog name "Mẹ Nấm")

A few hundred people out of a population of 90 million take to the streets to express their love of their country, Vietnam. What does this tell us?

Just think about it. A country with 90 million people who are so afraid that they remain silent when their country's survival is a matter of life and death. This is the tragic result of decades of living under the oppression of the hammer and sickle.

Because they are afraid, 90 million people willingly gag themselves and silently suffer repression and injustice. Worms get used to being trampled on – that's the nature of resignation.

Because they are afraid, they cow before leaders with fake diplomas, sham knowledge and decadent morality. Because they are afraid, they accept corruption and graft as the natural laws of existence. They accept compromise, and by doing so help to nourish and support this dishonest machine. Little by little, they convince themselves that what they are doing is right. The result is a heartless and uncaring society.

A few hundred people out of 90 millions who demonstrate for the love of their country. Who are they? They are not heroes. They are not people who do not fear being beaten by Police or locked up behind prison doors. But they are afraid that their people will become slaves to China. They are afraid that their children will turn into cruel monsters or docile sheep. That is why they demonstrate.

They are aware of the risks they are taking, but they have a longing in their hearts. They must do what they can to dispel fear amongst those around them, so that more and more people will step out of the shadows and join with them to shape our nation's future.

For the greatest danger facing the Vietnamese people today is fear – the fear inside each person's heart that is slowly, inexorably stifling our vitality and our very future. Dispelling this fear is the most urgent challenge we face. If we can't solve this problem, there is no point talking about democracy, independence or preserving national sovereignty. The destiny of Vietnam is in our own hands. It is up to us, no-one else.

Nguyễn Ngọc Như Quỳnh, *blog name "Mẹ Nấm" (Mother Mushroom), 17 September 2011. A vocal blogger and activist, Mẹ Nấm was briefly arrested in 2009 for posting anti-China articles on her blog (URL* http://menam0.multiply.com*). She continues to write, but is subjected to continuous Police surveillance.*

Who?

Poet Bùi Chát

I meet the communists
Our brothers
Who make us lose our memories
Lose our own voices
Lose things of value
We possess but one thing
Fear

I talk with the communists
Our brothers
Who want to herd us
Who always turn us into canned food
In hope of our everlasting gratitude

Those communists
Our brothers

We have seen them wonder
In this ill-fated house
Who wants to inherit their legacy?

Bùi Chát, *from "One-rhyme poems" 2009* [35]
Poet and blogger Bùi Chát was first arrested on 30 April 2011 as he returned from Buenos Aires where he received the "Freedom to Publish Award" from the International Publishers' Association[36]*. On 24 September 2012, he was again arrested for joining bloggers outside the trial of the Club of Free Journalists. He is frequently harassed and subjected to Police surveillance because of his writings.*

35. "One-ryhyme poems" by Bùi Chát, Giấy Vụn (Scrap-paper) Publishing House, Saigon 2009. Translated into English by Lê Đình Nhất-Long.
36. http://www.internationalpublishers.org/index.php/freedom-to-publish/ipa-freedom-to-publish-prize/2011-recipient, International Publisher's Association, 2011.

Extracts from the Petition to President Trương Tấn Sang by 144 Vietnamese intellectuals calling for the release of student Nguyễn Phương Uyên

We understand the student Phương Uyên. When we were her age before 1975, many of us served harsh sentences in the dungeons of Polo Condor Island because of our struggle for the revolution… Phương Uyên simply did what a lot of us dream about when we explain this poem to our students: *"If I don't shine bright like fire/ If you don't shine bright like fire/If we don't shine bright like fire/How can we ever/turn darkness/into light?"*

Her action displays the carefree courage of youth, it inspires young people, gives them a noble example, shows them how to love their country and oppose foreign aggression. Why have you arrested and maltreated her? Why have you imprisoned so many other young people just because they love their country? We call on you, Mr. President, to review all the severe prison sentences handed down against young people who simply expressed dissenting ideas and meant no harm to their country. These infamous trials are undermining the prestige of our country and shaming Vietnam before international opinion.

Extract from a Petition to the Vietnamese President signed by 144 prominent Communist Party and military veterans, academics, writers, artists on 30 October 2012 protesting the arbitrary arrest of student Nguyễn Phương Uyên.

Danlambao's Editorial Letter in Response to the Prime Minister's Gag Order 7169

(Extracts)

This order is a direct violation of the freedom of expression enshrined in our constitution and of the international convention on human rights to which Vietnam is a signatory... *Danlambao* will not succumb to any state order aimed at silencing us. No government or political party has the right to choose for the people what information they can read, hear, or exchange. *Danlambao* will continue to provide information and multidimensional views on these and other topics, and to create a forum where our readers report news, represent their own perspectives on matters which affect their daily lives. Additionally, *Danlambao* will not side with any faction within the Party nor allow ourselves to be influenced by any "foreign" or "hostile" force--as the prime minister accuses us of doing. We reject the influence of any political power or elite. It is the nation that we serve. In the long term, we believe that the Vietnamese media will change - has already changed to a certain degree--and we take pride in our role influencing that evolution. We expect more journalists who work for state-owned media to join the free and independent bloggers' community. We expect independent media to become a viable alternative to state-owned media; already Party leaders are using our site to criticize one another, especially during elections or other politically sensitive times.

In the meantime, *Danlambao* calls upon all our contributors, readers, and supporters to continue sending a clear message to Prime Minister Dung that we are committed to freedom of expression... Together we will walk the challenging journey with other free, independent journalists to bring the truth and uncensored news with integrity and credibility to all [37].

Danalambao, *or Citizen Journalist,* http://danlambaovn.blogspot.com *is a Vietnamese-language collective blog, posting critical news and editorials. Its editorial team works in anonymity.*

"Don't cite lofty principles as a pretext to pauperize our peasants!"

Forcing farmers and peasants – the poorest people in Vietnam – to sacrifice their interests for other goals, however noble they may be, is tantamount to pauperizing our rural population.

Based on the axiom: *"the land belongs to the people, and the State manages it on the people's behalf",* Party officials and cadres mercilessly "recover" peasants' lands in the most unlawful way. In reality, ***"the land belongs to the State and the Party manages it on the State's behalf"*** and the peasants have no way to protect themselves.

Since the adoption of the 2003 Land Law up till today, Communist Party officials have illegally confiscated the rice-fields and lands of 500,000 farmers and peasants. The Party says it is revising the Land Law, but what is the point of this if the Party does not solve the problem at the roots by giving the peasants back their lands?

We are often told: "*the minority must serve the majority"*. This more or less resumes [British philosopher] Jeremy Bentham's theory of "utilitarianism" in which ***"it is the greatest happiness of the greatest number that is the measure of right and wrong"***

In the name of socialism, industrialization or urban modernization, the Party and government are seizing the peasants' lands for the good of the majority. But there is a difference - the Party and the government have forgotten that the majority of our population are peasants. So the greatest interest of the greatest number means the interest of the ***peasants,*** not the other way round. Peasants should not be forced to make sacrifices for the good of a minority of society.

So I repeat, forcing farmers and peasants – the poorest people in Vietnam – to sacrifice their interests for other goals, however noble they may be, amounts to nothing other than pauperizing the majority of the population of Vietnam.

Hoàng Kim, *posted on Bauxite Vietnam, 7 November 2012*
http://boxitvn.blogspot.com
This article is typical of the complaints and criticisms of Party policies and practices posted on this influential and extremely interesting site.

In 2012, the Communist Party and the government canvassed public opinion on the revision of the 1992 Vietnamese Constitution, including the controversial Article 4 on the Communist Party's political monopoly. This has generated a heated debate in a host of articles on the blogs. Below is one example:

"The Party is not a tiger"

Mr. Phan Trung Lý, Director of the National Assembly's Commission of Justice declared: *"The people may say what they really think about Article 4 or any other articles in the draft of the*

37. Editorial Letter from *Danlambao*, September 2012. http://danlambaovn.blogspot.fr/2012/09/danlambaos-editorial-letter-in-response.html#.UF8Vua7EBaY

revised Constitution. Nothing is taboo". Article 4 of the Constitution states that the Communist Party is the "leading force of society and the State".

The Party is not a tiger, so we don't have to call it "Mr. New Year's Eve" because we are afraid to call it by its real name. The Party is not a king from feudal times, when the very mention of the monarch's name by the common people was forbidden.

The spirit of the statement made by the Head of the Revised Constitution's Drafting Committee means that people may express their views on the whole draft of the revised Constitution without any exception. There is no forbidden zone, no need to be afraid that one is speaking out of line or breaking taboos.

However – oh yes, there is always the word "however".

However, in its most recent Directive on organizing this canvassing of public opinion on the revised Constitution, the Politburo ordered Party organs at all levels to scrupulously enforce Resolution No. 2 adopted by the Communist Party's Central Committee at its XI Session. Resolution No. 2 reaffirms that the Vietnamese Communist Party is the ruling Party and the driving force of society and the state.

The problem is, if it is true that "nothing is taboo", then many people are bound to express views very different from Resolution No. 2.

We stress: this is the first time in our history that the people have had the right to contribute their views and participate directly in shaping their own Constitution, this mother of all laws. If this participation is truly aimed to promote the people's right to self-determination and mobilize their hearts and minds, to reach a consensus of the people's will and aspirations concerning their Constitution, there should be no "howevers" and truly no "taboos". Because it would be very difficult to accept a revised text with phrases such as: *"The people wishes - however, the Party decides"*.

Extracts from an article by **Đào Tuấn**, posted on https://anhbasam.wordpress.com on 3 January 2013

Principle No. 1: My wife is always right.
Principle No. 2: When my wife is wrong, go back to Principle No. 1.
(This photo was used to illustrate the writers comments on the Communist Party.)

Conclusions and Recommendations

The obligation to protect freedom of expression is binding on Vietnam, as a State party to the ICCPR. Article 19 of the ICCPR protects speech made through any media, including through the Internet and blogs. Access to the Internet and the use of the Internet and related technology to conduct human rights activities have also been increasingly recognized as key components of the right to freedom of expression, opinion and information. This was emphasized by the United Nations Human Rights Council in a Resolution on "Promotion, protection and enjoyment of human rights on the internet" adopted the 5th of July 2012 which

> "Affirms that the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one's choice, in accordance with articles 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights" [38] .

The right to freedom of expression is not absolute, but the exercise of this right can be limited only under narrowly construed conditions to achieve a legitimate purpose, in accordance with Article 19.3[39] of the ICCPR and without putting at risk the right itself.

In his report to the UN Human Rights Council in April 2010[40], the UN Special Rapporteur on freedom of opinion and expression made clear that restrictions on the following aspects of the right to freedom of expression are not permissible:

1. Discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups;
2. The free flow of information and ideas, including practices such as the banning or closing of publications or other media and the abuse of administrative measures and censorship;
3. Access to or use of information and communication technologies, including radio, television and the Internet.

The UN Human Rights Committee also made clear that:

> "Any restrictions on the operations of websites, blogs or any other internet-based, electronic or other such information dissemination system…are only permissible to the extent that they are compatible with paragraph 3 [of Article 19 of the ICCPR]."[41]

---

38. "Promotion, protection and enjoyment of human rights on the internet", UN General Assembly 29 June 2012,
39. Article 19.3 of the ICCPR states:
The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: a. For respect of the rights or reputations of others; b. For the protection of national security or of public order (ordre public), or of public health or morals.
40. UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report to the 14th Session of the Human Rights Council, April 2010 (A/HRC/14/23). See also the Principle 7 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information.
41. Paragraph 43, UN Human Rights Committee General Comment No. 34.

In its General Comment 34, the Human Rights Committee further elucidates that any restrictions on the right to freedom of expression, whether online and offline, "must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly" and must "conform to the strict tests of necessity and proportionality."[42] Vietnam's Criminal Code provisions and policies affecting freedom of expression do not meet these strict tests and are therefore contravene the ICCPR and other international standards on freedom of expression.

The intimidation, harassment, assault and imprisonment of bloggers and netizens in Vietnam are in clear violation of its international human rights obligations. The restrictions imposed on the right to freedom of expression by the laws, regulations and decrees also exceed far beyond what is permissible under international human rights law and standards.

Key Recommendations:

The Government of Vietnam should:

1. Immediately and unconditionally release all bloggers, online journalists, human rights defenders and dissidents detained for the peaceful expression, both online and offline, of their political and other opinions or religious beliefs;
2. Put an end to censorship, mass surveillance, and all acts of harassment, including at the judicial level, against all human rights defenders, including those using the Internet and other information and communications technologies (ICTs) for their human rights work, and comply with the provisions of the UN Declaration on Human Rights Defenders, adopted by the UN General Assembly on 9 December 1998;
3. Implement the recommendations of the UN Human Rights Committee[43] by bringing domestic legislation into line with international human rights law and immediately repealing all legislation restricting the exercise of internationally recognised human rights; in particular:
    a. Immediately repeal Ordinance 44 on "Regulating Administrative Violations" which authorizes detention without trial, and release all those currently detained under house arrest, in re-habilitation camps or psychiatric institutions under the provisions of this law;
    b. Urgently revise vaguely-defined "national security" provisions in the Criminal Code, especially Articles 79, 80, 86, 87, 88, 91 and 258 to bring them in line with international human rights law and standards, including the Johannesburg Principles on National Security, Freedom of Expression and Access to Information and the norms proposed by the UN Special Rapporteur on Freedom of Expression; Article 88 should never be invoked to suppress the rights to freedom of expression online or offline, as guaranteed in Article 19 of the ICCPR;

42. Paragraph 22 in General Comment 34 of the UN Human Rights Committee, September 2011. (CCPR/C/GC/34). Paragraph 15 in UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression report to the 66th Session of the General Assembly, August 2011 (A/66/290).
43. Concluding observations of the Human Rights Committee: Viet Nam », CCPR/CO/75/VNM, 26/07/2002.

c. Amend or repeal all legislation that restricts the right to freedom of the press; authorise the publication of independent newspapers to provide a forum for dialogue and democratic debate;

4. Guarantee the right to due process of law, including the right to a fair trial; defendants should be able to meet their lawyers in confidentiality 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;

5. Uphold the pledge it made at Vietnam's 2009 Universal Periodic Review to *"guarantee full freedom of information in accordance with article 19… including freedom of the Internet"* and include clear explanations on how it has implemented this recommendation in its State report to the second Universal Periodic Review in 2014;

6. Invite without delay the UN Special Rapporteur on freedom of expression and opinion for a country visit, fully cooperate with his mandate and implement his recommendations; more broadly, issue a standing invitation to all special procedures and respond promptly to their communications; and

7. Conduct meaningful, transparent and broad-based consultations with independent civil society organisations and human rights defenders for Vietnam's third periodic report to the Human Rights Committee (overdue since 2004) on its implementation of the ICCPR, including of Article 19.

The international community, including ASEAN, the EU, and the UN, should:

8. Consistently raise concerns, both publicly and privately, about human rights violations in Vietnam at the highest levels and urge Vietnam to cease harassments, intimidation, arbitrary detention, house arrest and imprisonment of individuals or groups peacefully exercising their right to freedom of expression or religion;

9. Strongly urge Vietnam, both publicly and privately, to review and amend or repeal legislations, policies and regulations that restrict and violate the right to freedom of expression and opinion, on and offline;

10. Provide visible and effective support to human rights defenders, including by sending official observers to their trial, visiting them and their families, and issuing statements of concerns;

11. Adopt a strategic and comprehensive response using all the instruments at its disposal (such as human rights and other dialogues, aid and trade) to address the restrictions on the right of freedom of expression and opinion, on and offline. Monitor annually the evolution of cyber-censorship techniques and legislative measures in Vietnam affecting Internet freedom or democracy indicators and adapt its comprehensive strategy accordingly

12. Insist that closer bilateral relationships with Vietnam be dependent on measurable progress in the respect for all human rights, including the right to freedom of expression and opinion, on and offline;

13. Ensure transparency and accountability of the bilateral development assistance given

to Vietnam and that such assistance is monitored and evaluated regularly and vigorously for their impact on the enjoyment of human rights; in particular, ensure that financial and technical assistance for legal reforms is never used for and does not result in the adoption and enforcement of restrictive legislation and withhold or withdraw funding whenever this occurs;

14. Introduce measures in development assistance programmes to improve digital freedom, and ensure that such assistance provides independent civil society, bloggers and human rights defenders with the resources and technical tools and knowledge to circumvent cyber-censorship and to improve their privacy and security;

15. Ensure transparency and accountability in all trade and investment agreements with Vietnam and that these agreements are conductive to the fulfilment and protection of fundamental rights, including by

    a. Ensuring, prior to the conclusion of such agreements, that impact assessment is conducted to anticipate and address potential impact on all human rights, including freedom of expression and opinion, on and off line;

    b. Ensuring that such agreements are monitored and evaluated regularly and vigorously, including by the European Parliament, for their actual impact on the enjoyment of human rights;

    c. Including in trade agreements strong and efficient human rights clauses and binding dispute settlement and redress mechanisms to address human rights violations;

    d. Integrating into these agreements a safeguard mechanism to ensure that companies operating or investing in Vietnam are adequately protected from government requests to restrict access, remove content or provide personal information of human rights defenders, journalists, activists and dissidents in ways that contravene fundamental rights and freedoms;

    e. Taking all necessary measures to prevent and regulate the export of ICT technologies that could be used to violate the right to freedom of expression and privacy in Vietnam, and improving the monitoring of exports of those ICTs, products and services; and

    f. Taking all necessary measures, including through legislations, to regulate the extraterritorial activities of information and communication technology companies, and other relevant business enterprises, domiciled in their territory and/or jurisdiction to ensure business respect of human rights in Vietnam; in particular, trading partners should require that these companies assess the human rights impact of new ICT products and services exported to Vietnam and prevent complicity in human rights violations; they should exclude companies engaging in activities violating human rights in Vietnam from public procurement procedures and call for tenders.

16. For counterpart countries that have human rights dialogues with Vietnam, including Australia, Norway, Switzerland, the United States, and the European Union:

    a. Increase the transparency and accountability of the dialogues and any other associated civil society process by producing regular assessments based upon

clear and meaningful benchmarks, supported by substantive indicators, and making these assessments public; these would ensure the dialogues can produce positive human rights outcomes and do not become annual rituals used by Vietnam to deflect international scrutiny of its human rights record;

b. Send strong messages of concern and support for activists, dissidents and human rights defenders and their families by continuing to raise individual cases and consider making public the lists of cases submitted to enhance impact of increased public attention on releases or improved conditions and treatment in detention facilities;

c. In light of the restrictive environment and the lack of independent human rights organisations in Vietnam, counterpart countries should ensure adequate consultations with civil society organisations outside of Vietnam. Such consultations should include briefings and preparatory meetings between NGOs and staff of the relevant government ministries and offices in the counterpart country, in advance of the dialogue sessions; there should also be briefings between the NGO representatives and any independent experts invited to the expert seminar, where such a segment exists in the dialogue;

d. Strengthen the role and participation of human rights organisations and other civil society groups, as well as members of parliament of the counterpart country, in the dialogue.

17. Insist that Vietnam respects its binding commitments as a state party to key international human rights instruments, and not accept reasons of cultural specificity to justify any derogation from internationally-recognised human rights, including by calling for a revision of the "ASEAN human rights declaration" adopted in November 2012 which introduces sweeping and novel grounds for derogation that are not recognised under international human rights law and standards;

The ASEAN Intergovernmental Commission on Human Rights (AICHR) should:

1. Urge the Government of Vietnam to respect and protect all human rights, including the right to freedom of expression, on and offline;
2. Urge the Government of Vietnam to cease harassments, intimidation, arbitrary detention, house arrest and imprisonment of individuals or groups peacefully exercising their right to freedom of expression or religion;
3. Urge the Government of Vietnam to review, amend or repeal laws and policies inconsistent with international human rights law and standards pertaining to freedom of expression;
4. Per Article 4.10 of AICHR's Terms of Reference, seek information from and make recommendations to Vietnam on the promotion and protection of the right to freedom of expression online and offline; assess its performance in this regards in meaningful consultations with the Government, civil society, the UN, and other stakeholders; and make public its recommendations to the Government.

Information and communication technology (ICT) companies investing or operating in Vietnam should:

1. Respect human rights at all times including where the Government of Vietnam is failing to uphold its human rights obligations;
2. Respect freedom of expression of those who are affected by business activities and refrain from encouraging or being complicit in censorship, repression and criminalization of dissidents, activists and human rights defenders;
3. Reject, challenge, and express concerns regarding restrictive provisions in existing laws and regulations as well as in the pending Decree on Internet Management which would require ICT companies to provide information on users and vaguely-defined "prohibited acts" when they are requested to do so by investigation bodies in Vietnam;
4. Exercise human rights due diligence and to develop effective strategies to mitigate risks to freedom of expression posed by the Government of Vietnam;
5. Engage Vietnamese government officials to encourage the review, amendment or repeal of laws and policies inconsistent with international human rights law and standards pertaining to freedom of expression; and
6. Participate in the Global Network Initiative and adhere to its Principles on Freedom of Expression and Privacy and the Implementation Guidelines.

Annex I
Provisions under the Criminal Code that are inconsistent with international human rights law[44]

Article 79.- **Carrying out activities aimed at overthrowing the people's administration**

Those who carry out activities, establish or join organizations with intent to overthrow the people's administration shall be subject to the following penalties:

1. Organizers, instigators and active participants or those who cause serious consequences shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment;

2. Other accomplices shall be subject to between five and fifteen years of imprisonment.

Article 80.- **Spying**

1. Those who commit one of the following acts shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment:

    a) Conducting intelligence and/or sabotage activities or building up bases for intelligence and/or sabotage activities against the Socialist Republic of Vietnam;

    b) Building up bases for intelligence and/or sabotage activities at the direction of foreign countries; conducting scouting, informing, concealing, guiding activities or other acts to help foreigners conduct intelligence and/or sabotage activities;

    c) Supplying or collecting for the purpose of supplying State secrets to foreign countries; gathering or supplying information and other materials for use by foreign countries against the Socialist Republic of Vietnam.

2. In case of more serious crimes, the offenders shall be sentenced to between five and fifteen years of imprisonment.

3. Persons who agree to act as spies but do not realize their assigned tasks and confess, truthfully declare and report such to the competent State bodies shall be exempt from penal liability.

Article 87.- **Undermining the unity policy**

1. Those who commits one of the following acts with a view to opposing the people's administration shall be sentenced to between five and fifteen years of imprisonment:

    a) Sowing division among people of different strata, between people and the armed forces or the people's administration or social organizations;

    b) Sowing hatred, ethnic bias and/or division, infringing upon the rights to equality among the community of Vietnamese nationalities;

---

44. Translation from *"A Selection of Fundamental Laws of Vietnam"*, Thế Giới Publishers, Hanoi 2001. In this and other editions, there is an error of translation in Articles 80, 87 and 88, paragraph 2, which we have corrected. It should be "***more***" serious crimes, not "***less*** serious crimes" as printed.

c) Sowing division between religious people and non-religious people, division between religious believers and the people's administration or social organizations;

d) Undermining the implementation of policies for international solidarity.

2. In case of committing more serious crimes, the offenders shall be sentenced to between two and seven years of imprisonment.

Article 88.- **Conducting propaganda against the Socialist Republic of Vietnam**

1. Those who commit one of the following acts against the Socialist Republic of Vietnam shall be sentenced to between three and twelve years of imprisonment:

   a) Propagating against, distorting and/or defaming the people's administration;

   b) Propagating psychological warfare and spreading fabricated news in order to foment confusion among people;

   c) Making, storing and/or circulating documents and/or cultural products with contents against the Socialist Republic of Vietnam.

2. In the case of committing more serious crimes, the offenders shall be sentenced to between ten and twenty years of imprisonment.

Article 91.- **Fleeing abroad or defecting to stay overseas with a view to opposing the people's administration**

1. Those who flee abroad or defect overseas with a view to opposing the people's administration shall be sentenced to between three and twelve years of imprisonment.
2. Organizers, coercers and instigators shall be sentenced to between five and fifteen years of imprisonment.
3. In the case of committing particularly serious crimes, the offenders shall be sentenced to between twelve and twenty years of imprisonment or life imprisonment.

Article 92.- **Additional penalties**

Persons who commit crimes defined in this Chapter shall also be deprived of a number of civic rights for between one year and five years, subject to probation, residence ban for between one year and five years, confiscation of part or whole of the property.

Article 258.- **Abusing democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens**

1. Those who abuse the rights to freedom of speech, freedom of press, freedom of belief, religion, assembly, association and other democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens, shall be subject to warning, non-custodial reform for up to three years or a prison term of between six months and three years.

2. Committing the offense in serious circumstances, the offenders shall be sentenced to between two and seven years of imprisonment.

Annex II

Recommendations on freedom of expression and of the press made by UN Member States at the Universal Periodic Review of Vietnam in 2009[45]

No	Country	Recommendation	Response by Vietnam
1	Canada	Increase the independence of media from the State, including by allowing privately-run media; Bring its press laws into compliance with article 19 of ICCPR; and Reduce the use of security laws that limit public discussion about multi-party democracy or criticism of the Government, including by bringing security and propaganda laws into compliance with ICCPR.	Rejected
2	Finland	Allowing media to take their watchdog role in society; Amending its press law to comply with ICCPR; and Repealing or amending its Penal Code to ensure that it cannot be applied in an arbitrary manner to prevent the freedom of expression.	Rejected
3	France	Take measures advocated by the Human Rights Committee to bring to an end restrictions to freedom of expression and opinion and to end, notably, restrictions on the creation of private media at the same time	Rejected
4	Germany	Taking all necessary measures to end restrictions on the rights to freedom of expression and peaceful assembly	Rejected
5	Netherlands	Authorize independent and privately-run newspapers and magazines, and lift restrictions on Internet usage such as filtering and surveillance.	Rejected

45. See http://www.ohchr.org/EN/HRBodies/UPR/Pages/VNSession5.aspx.

No	Country	Recommendation	Response by Vietnam
6	New Zealand	Permit independence of the media, improves its implementation article 19 of ICCPR and allow the establishment of privately-run media organizations.	Rejected
7	Norway	Give individuals, groups and organs of society the legitimacy and recognition to promote human rights and to express their opinions or dissent publicly; (d) ensure that the media can operate freely and independently.	Rejected
8	United States	Demonstrate its commitment to article 69 of its Constitution, article 19 of ICCPR and article 19 of the Universal Declaration of Human Rights by ensuring freedom of expression for members of the press without fear of arbitrary arrest or prosecution, provide for the free flow of information on the Internet and abolish restrictive regulations on blogging and the media; Demonstrate its commitment to articles 50 and 69 of the Constitution, articles 19, 21, and 22 of ICCPR and article 20 of the Universal Declaration by allowing individuals to speak out on the political system and by releasing all prisoners of conscience, such as Father Nguyen Van Ly, Nguyen Van Dai and Le Thi Cong Nhan, and abolish vague "national security" provisions such as articles 84, 88, and 258 used to convict those who voice dissent against the Government or its policies.	Rejected
9	United Kingdom	Engage substantively with international experts on the development of its media law and work to increase the independence of media institutions.	Rejected
10	Argentina	Take the necessary steps to ensure that citizens can fully enjoy the rights to freedom of expression and freedom of religion.	Accepted
11	Italy	Fully guarantee the right to receive, seek and impart information and ideas in compliance with article 19 of ICCPR.	Accepted
12	Republic of Korea	Strengthen efforts in the areas of civil and political freedoms, including freedom of expression and the press and freedom of religion.	Accepted
13	Sweden	Take steps to ensure that full respect for the freedom of expression, including on the Internet, is implemented in current preparations for media law reform.	Accepted

Annex III
Bloggers and Netizens Behind Bars At a Glance

Non-exhaustive list of persons detained for Online activities

1. **Cù Huy Hà Vũ**, born 1957; legal expert and blogger; arrested on 5 November 2010; sentenced on 4 April 2011 to seven years in prison and 3 years "probationary detention" (*quản chế* or house arrest) for *"propaganda against the Socialist Republic of Vietnam"* (Article 88 of the Penal Code); sentence confirmed on appeal on 2 August 2011; detained in prison camp No. 5, Thanh Hóa.

2. **Đặng Xuân Diệu**, born 1977; Catholic blogger; arrested on 30 July 2011; sentenced to 13 years in prison and five years house arrest on charges of "subversion" (Clause 1, Article 79) by the People's Court in Nghe An on 9 January 2013.

3. **Đinh Đặng Định**, born 1963; former teacher; arrested *on* 21 October 2011 for writing articles exposing official corruption; sentenced on 8 August 2012 to 6 years in prison for *"propaganda against the SRV"* (Article 88) by the People's Court in Daknong; sentence upheld on appeal on 21 November 2012; detained in Daknong.

4. **Hồ Đức Hòa**, born 1974; Catholic activist and blogger; arrested on 30 July 2011; sentenced to 13 years in prison and five years house arrest on charges of "subversion" (Clause 1, Article 79) by the People's Court in Nghe An on 9 January 2013.

5. **Hồ Thị Bích Khương,** born 1967; land rights activist; arrested on 15 January 2011; sentenced on 29 December 2011 to 5 years in prison and 3 years of house arrest for "*propaganda against the SRV*" (article 88); sentence upheld on appeal on 30 May 2012; detained in Nghe An prison camp.

6. **Lê Công Định**, born 1968; human rights lawyer, former Vice-President of the Ho Chi Minh City Bar Association; arrested in 2009; sentenced on 20 January 2010 to 5 years in prison and 3 years of house arrest for *"subversion"* (Clause 1, Article 79); sentence confirmed on appeal on 11 May 2010; detained in Chí Hòa Prison, Ho Chi Minh City.

7. **Lê Quốc Quân,** born 1971; lawyer and blogger; arrested on 27 December 2012 and charged with "tax evasion" (Article 161 of the Criminal Code); currently detained in Hỏa Ló Prison No. 1, Hanoi.

8. **Lê Thanh Tùng**, born 1968; freelance journalist; arrested on 12 January 2011 for *"propaganda against the SRV"* (Article 88); sentenced to five years in prison and four years house arrest on 10 August 2012; detained in B14 Prison, Thanh Liet.

9. **Lê Văn Sơn**, born 1985; Catholic blogger, pen name Paulus Lê Sơn; arrested on 3/8/2011; sentenced to 13 years in prison and five years house arrest on charges of "subversion" (Clause 1, Article 79) by the People's Court in Nghe An on 9 January 2013.

10. **Lô Thanh Thảo**, (Ms.) born 1977; arrested on 26 March 2012 for *"propaganda against the SRV"* (Article 88); sentenced to 3 ½ years in prison and two years house arrest by the People's Court in Ho Chi Minh City on 8 January 2013.

11. **Lư Văn Bảy**, born 1952; Cyber-dissident; arrested in May 2011; sentenced on 22 August 2011 by the People's Court in Kiên Giang province to 4 years in prison and 3 years of house arrest for *"propaganda against the SRV"* (Article 88); detained in Kien Giang province.

12. **Nguyễn Đình Cương,** 31, Catholic activist and blogger; arrested on 24 December 2011 and sentenced to four years in prison and three years house arrest on charges of "subversion" (Clause 2, Article 79) by the People's Court in Nghe An on 9 January 2013.

13. **Nguyễn Văn Duyệt**, 32, Catholic activist and blogger; arrested on 7 August 2011; sentenced to six years in prison and four years house arrest on charges of "subversion" (Clause 2, Article 79) by the People's Court in Nghe An on 9 January 2013.

14. **Nguyễn Kim Nhàn,** born 1949; arrested on 7 June 2011; sentenced on 16 July 2012 to 5 ½ years in prison and three years house arrest for *"propaganda against the SRV"* (Article 88); detained in Bắc Giang prison camp.

15. **Nguyễn Ngọc Cường**, born 1956; land rights activist; arrested in September 2010; sentenced in April 2011 to seven years in prison for *"propaganda against the SRV"* (Article 88) for launching an Internet forum on land rights issues and distributing leaflets*;* sentence confirmed on appeal in May 2012; detained in Section K1 of Xuan Loc Prison Camp, Dong Nai.

16. **Nguyễn Tiến Trung**, born 1983; Pro-democracy activist; arrested in 2009; sentenced on 20 January 2010 to seven years in prison and three years of house arrest for *"carrying out activities aimed at overthrowing the people's administration"* (Article 79); detained in PA 92 Prison, Ho Chi Minh City.

17. **Nguyễn Trung Lĩnh**, Born: 1967; pro-democracy activist; arrested in November 2011 under Ordinance 44 and reportedly detained in No. 1 Central Psychiatric Hospital, Hanoi.

18. **Nguyễn Văn Duyệt**, born 1980; Catholic activist and blogger; arrested on 7 August 2011; sentenced to six years in prison and four years house arrest on charges of "subversion" (Clause 2, Article 79) by the People's Court in Nghe An on 9 January 2013.

19. **Nguyễn Văn Hải (Điếu Cày)**, born 1952; blogger and pro-democracy activist; arrested in 2008 and sentenced to 30 months prison for "tax evasion"; maintained in prison after completing his sentence on 19 October 2010 under new charges of *"propaganda against the SRV"* (Article 88); sentenced to 12 years in prison and five years house arrest on 24 September 2012 by the Ho Chi Minh City People's Court; sentence upheld at appeal trial on 28 December 2012; currently detained in Chí Hòa Prison, Ho Chi Minh City; adopted as a victim of arbitrary arrest by the UN Working Group on Arbitrary Detention (Opinion 1/2009).

20. **Nguyễn Văn Lía**, born 1940; Hoa Hao dignitary; arrested in April 2011; sentenced on 13 December 2011 to 5 years in prison and 3 years house arrest for *"abusing democratic freedoms to infringe upon the interests of the State"* (Article 258) by An Giang People's Court; reduced on appeal to 4 ½ years prison on 2 March 2012) detained in Z30A Xuan Loc prison camp in Dong Nai; was tortured in detention and is in very poor health.

21. **Nguyễn Văn Lý,** born 1946; Roman Catholic Priest, arrested several times for advocating religious freedom; sentenced on 30 March 2007 to 8 years in prison for *"propaganda against the SRV"* (Article 88); suffered a stroke in prison, temporarily released for medical care in March 2010, now returned to prison; detained in Ba Sao Prison in Nam Ha Province.

22. **Nguyễn Văn Oai**, born 1980; Catholic activist and blogger; arrested on 30 July 2011; sentenced to three years in prison and two years house arrest on charges of "subversion" (Clause 2, Article 79) by the People's Court in Nghe An on 9 January 2013.

23. **Nguyễn Xuân Nghĩa**, born 1949; writer and pro-democracy activist; arrested in 2008; sentenced on 9 October 2009 to six years in prison and three years of house arrest for *"propaganda against the SRV"* (Article 88); detained in Prison Camp No. 6 in Thanh Chuong district, Nghe An; adoped as a victim of arbitrary arrest by the UN Working Group on Arbitrary Detention (Opinion 1/2009).

24. **Nông Hùng Anh,** 29, Protestant activist and blogger; arrested on 5 August 2011 in Hanoi; sentenced to five years in prison and three years house arrest on charges of "subversion" (Clause 2, Article 79) by the People's Court in Nghe An on 9 January 2013.

25. **Phạm Ngọc Tuấn,** 53, Lutheran Protestant, blogger; arrested in August 2011 *for "propaganda against the SRV"* (Article 88); sentenced to five years in prison by the People's Court in Phan Rang in June 2012; sentence confirmed on appeal on 29 August 2012; detained in Phan Rang;

26. **Phan Thanh Hải**, born 1969; Blogger, pen name AnhBaSG; member of the Club of Free

Journalists; arrested on 18 October 2010 for *"propaganda against the SRV"* (Article 88); sentenced on 24 September 2012 to 4 years prison and 3 years house arrest; sentence reduced on appeal on 28 December 2012 to three years in prison and three years house arrest; detained in Ho Chi Minh City.

27. **Tạ Phong Tần (Ms.)**, born 1968; Catholic blogger, former Police officer and member of the Communist Party; member of the Club of Free Journalists; arrested on 5 September 2011 for *"propaganda against the SRV"* (Article 88); her mother immolated herself in protest on 30 July 2012; sentenced on 24 September 2012 to 10 years in prison and 5 years house arrest by the Ho Chi Minh City People's Court; sentence upheld at appeal trial on 28 December 2012.

28. **Thái Văn Dung,** 24, Catholic activist and blogger; arrested on 19 August 2011; sentenced to five years in prison and three years house arrest on charges of "subversion" (Clause 2, Article 79) by the People's Court in Nghe An on 9 January 2013.

29. **Trần Anh Kim**, born 1949; pro-democracy activist, former officer in the People's Army; arrested on 7 July 2009 in Haiphong; sentenced on 28 December 2009 to 5 ½ years in prison and three years of house arrest for *"carrying out activities aimed at overthrowing the people's administration"* (Article 79); detained in Prison No. 6, Thanh Chương, Nghệ An province.

30. **Trần Huỳnh Duy Thức**, born 1966; arrested in 2009; sentenced on 20 January 2010 to 16 years in prison and five years house arrest for *"carrying out activities aimed at overthrowing the people's administration"* (Article 79); sentence upheld on appeal on 11 May 2010; detained in Section K1 Z30A Xuan Loc prison camp in Dong Nai.

31. **Trần Vũ Anh Bình (Hoàng Nhật Thông)**, born 1974; song writer; arrested on 19 September 2011 for *"propaganda against the SRV"* (Article 88); sentenced on 30 October 2012 to 6 years in prison and 2 years house arrest by the Ho Chi Minh City People's Court.

32. **Vi Đức Hồi**, born 1956; former Communist Party member; arrested in 2010; sentenced on 26 January 2011 to eight years in prison and three years house arrest for *"propaganda against the SRV"* (Article 88); reduced on appeal on 26 April 2011 to 5 years prison and 3 years house arrest; detained in Lạng Sơn province.

33. **Võ Minh Trí (Việt Khang)**, born 1978; song writer and composer; arrested on 23 December 2011 for *"propaganda against the SRV"* (Article 88) for writing and singing protest songs; sentenced on 30 October 2012 to 4 years prison and two years house arrest by Ho Chi Minh City People's Court.

Under house arrest following prison sentence (Article 92 of the Penal Code)

1. **Nguyễn Văn Đài**: Born 1969. Human rights lawyer and founder of the Vietnam Human Rights Committee in Hanoi. Sentenced on 11 May 2007 to five years prison and four years house arrest for *"conducting propaganda against the SRV"* (Article 88); sentence reduced on appeal to 4 years prison and 4 years house arrest. Released in March 2011, serving house arrest until March 2015.

2. **Lê Thăng Long**, born 1967; arrested in 2009; sentenced on 20 January 2010 to 5 years prison and 3 years house arrest (reduced on appeal to 3 1/2 years prison on 11 May /2010) for *"carrying out activities aimed at overthrowing the people's administration"* (Article 79). Released in June 2012, under house arrest until June 2015.

3. **Nguyễn Văn Túc**, born 1964; arrested in 2008; sentenced on 9/10/2009 to 4 years in prison and 3 years house arrest for *"propaganda against the SRV"* (Article 88); Released on 10 September 2012, under house arrest until September 2015.

4. **Nguyễn Mạnh Sơn**, born 1943; sentenced on 9 October 2009 to 3½ years in prison and 3 years house arrest for *"propaganda against the SRV"* (Article 88). Released in May 2011, under house arrest in Haiphong until May 2014.

5. **Phạm Bá Hải**: 44 years old. Founded the Bach Dang Giang Foundation after returning to Vietnam from studies in New Delhi. Arrested on 25 April 2006 and sentenced on 7 September

2008 to 5 years prison and 2 years house arrest for *"conducting propaganda against the SRV"* (Article 88); Released on 7 September 2011, under house arrest until September 2013.

6. **Phạm Minh Hoàng**: Born 1955. Blogger and lecturer in mathematics; arrested in August 2010; sentenced to 3 years prison and 3 years house arrest in August 2011 for *"carrying out activities aimed at overthrowing the people's administration"* (Article 79); reduced on appeal to 17 months. Released on 13 January 2012, under house arrest until January 2015.

7. **Phạm Thanh Nghiên**, (Ms.) born 1977; arrested in 2008 in Hai Phong; sentenced on 29/1/2010 to 4 years in prison and 3 years house arrest for *"propaganda against the SRV"* (article 88); released on 18 September 2012, under house arrest until September 2014.

8. **Phạm Văn Trội**, born 1972; arrested in 2008; sentenced on 8/10/2009 to 4 years in prison and 4 years house arrest for *"propaganda against the SRV"* (Article 88); released on 11 September 2012, under house arrest until September 2016.

9. **Vũ Hùng:** Born: 1966. Teacher, arrested on 18 September 2008, sentenced in Hanoi on 7 October 2009 to 3 years in prison and 3 years house arrest for *"conducting propaganda against the SRV"* (Article 88); Released in September 2011, under house arrest until September 2014.

Under house arrest without charge (quản thúc):

1. **Thích Quảng Độ**: Born 1928. Secular name Dang Phuc Tue. Buddhist monk, Patriarch of the Unified Buddhist Church of Vietnam (UBCV). Detained in internal exile in Thai Binh from 1982-1992); sentenced to 5 years prison and 3 years house arrest on 15 August 1995 for *"abusing democratic freedoms to harm the interests of the State*" (Article 258) for organizing a flood rescue mission. Released in an amnesty in September 1998; sentenced to 2 years house arrest in 2001; detained without charge since 2003 until today at the Thanh Minh Zen Monastery in Saigon.

2. **Nguyễn Đan Quế**: Born 1942. Endocrinologist, founder of the Nonviolent Movement for Human Rights in Vietnam. Arrested in 1991 and sentenced to 20 years prison and 5 years house arrest on charges of *"attempting to overthrow the people's administration* (Article 79). Released in a government amnesty in 1998; sentenced to 30 months in prison in 2003; released in 2005; under effective house arrest without charge since then.

3. **Nguyễn Văn Bảo,** Dignitary of the Cao Dai religious sect. Under house arrest without charge in Tay Ninh.

Annex IV
A number of blogs carrying dissident views in Vietnam

1/ https://daohieu.wordpress.com/

2/ http://boxitvn.blogspot.com/

3/ http://anhbasg.blogspot.com/

4/ http://danoanbuihang.blogspot.com/

5/ http://suthatcongly.multiply.com/notes/item/99

6/ caunhattan.wordpress.com

7/ http://nguyentuongthuy2012.wordpress.com/

8/ https://jbnguyenhuuvinh1962.wordpress.com/

9/ http://menam0.multiply.com/

10/ http://huynhngocchenh.blogspot.com/

11/ http://www.truongduynhat.net/

12/ http://www.hasiphu.com/ -

13/ http://quehuongcualua.blogspot.com/

14/ http://to-hai.blogspot.com/

15/ http://danlambaovn.blogspot.com/

16/ http://thientrieu2010.blogspot.com/

17/ http://vietnamhumanrightscommitte.wordpress.com

18/ http://nhucaytrevn.blogspot.com/

fidh

Keep your eyes open

Establishing the facts

Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.
FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

Supporting civil society

Training and exchange

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

Mobilising the international community

Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part inthe development of international legal instruments.

Informing and reporting

Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website… FIDH makes full use of all means of communication to raise awareness of human rights violations.

VIETNAM COMMITTEE ON HUMAN RIGHTS
QUÊ ME: ACTION FOR DEMOCRACY IN VIETNAM

Ủy ban Bảo vệ Quyền làm Người Việt Nam

The **Vietnam Committee on Human Rights** (VCHR) is the international section of **Quê Me: Action for Democracy in Vietnam**, a non-profit organisation founded in Paris in 1975 with sections in Europe, USA, Canada and Asia. Its aims are to monitor human rights, mobilise support for victims of human rights abuses and work for the respect of democratic freedoms and human rights in Vietnam. It also publishes books and reports in Vietnamese that are circulated underground in Vietnam and amongst the Vietnamese Diaspora to promote human rights education and culture, and provide a podium for all those working for the development of individual liberties and human rights in Vietnam. Vo Van Ai is President of the VCHR.

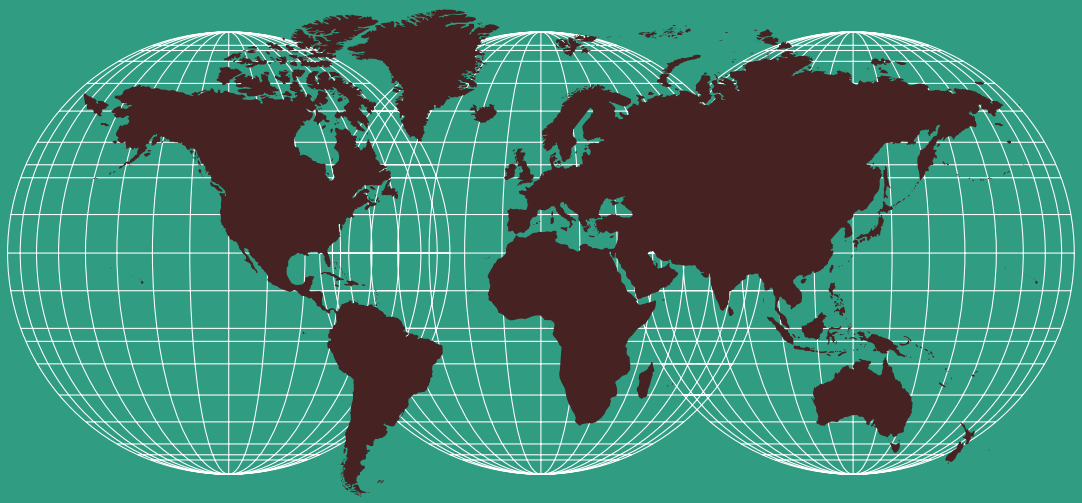
Quê Me: Action for Democracy in Vietnam
BP 60063 - 94472 Boissy Saint Léger cedex - France
Tél: +33 1 45 98 30 85 - Fax: +33 1 45 98 32 61
E-mail: queme.democracy@gmail.com - http://www.queme.net

FIDH - International Federation for Human Rights
17, passage de la Main-d'Or - 75011 Paris - France
CCP Paris : 76 76 Z
Tel: (33-1) 43 55 25 18 / Fax: (33-1) 43 55 18 80
www.fidh.org

Director of the publication: Souhayr Belhassen
Editor: Antoine Bernard
Authors / coordinators: Võ Văn Ái, Penelope Faulkner and Shiwei Ye, FIDH/Vietnam Committee on Human Rights/Quê Me : Action for Democracy in Vietnam.
Design: CBT

Imprimerie de la FIDH - Dépôt légal janvier 2013 - FIDH (English ed.) ISSN 2225-1804 - Fichier informatique conforme à la loi du 6 janvier 1978 (Déclaration N°330 675)

FIDH represents 164 human rights organisations on 5 continents



inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest, detention or exile. Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty

ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

A broad mandate
FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

A universal movement
FIDH was established in 1922, and today unites 164 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

An independent organisation
Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

fidh

Find information concerning FIDH's 164 member organisations on **www.fidh.org**