

UNIVERSAL PERIODIC REVIEW OF VIETNAM
United Nations Human Rights Council

17 June 2013

Joint Submission by

fidh

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Introduction

1. At its Universal Periodic Review in May 2009, Vietnam accepted recommendations to improve the protection of human rights. In these four following years, however, not only was progress in implementing these recommendations extremely limited, but on the contrary, Vietnam launched one of the most intensive crackdowns on freedom of expression, religion and assembly in recent years.
2. Between May 2009 and June 2013, FIDH and VCHR compiled cases of 160 human rights defenders and peaceful activists condemned to a total of 1,052 years in prison, with sentences ranging from two years to life imprisonment, followed by years of house arrest. They were all charged under vaguely-worded "*national security*" provisions in the Criminal Code which make no distinction between violent acts such as terrorism and the peaceful exercise of freedom of expression and are incompatible with the rights enshrined in the International Covenant on Civil and Political Rights (ICCPR) to which Vietnam acceded in 1982. This list is not exhaustive, and many others are awaiting trial.
3. In the on-going crackdown, peaceful activists and human rights defenders have been subjected to unprecedented Police brutality, beatings and sexual assaults, harassments, arbitrary arrest and "administrative detention" in labour camps and psychiatric institutions.
4. During the same period, Vietnam also introduced legal measures to restrict the exercise of human rights. New decrees and regulations were adopted to curb freedom of expression on the Internet, freedom of religion, and to limit the legal operations of domestic and international NGOs in Vietnam.

Constitutional and Legislative Framework

5. The protection of human rights is guaranteed by the 1992 Vietnamese Constitution. However, the exercise of these rights is severely curtailed by provisions in the Constitution and extensive domestic legislation that restricts human rights to compliance with "*the policies and interests of the State*". Article 4 of the Constitution which enshrines the political monopoly of the Vietnamese Communist Party (VCP) as *the "force leading the State and society"* is a major impediment to the exercise of human rights because it excludes pluralism of opinion and expression, and subjugates human rights protection to the protection of the one-Party state.
6. A project to amend the 1992 Constitution was opened to public debate in 2013. If adopted as presented, it would considerably weaken human rights protection in Vietnam. Whereas the 1992 Constitution guarantees that "*human rights in the political, civic, economic, cultural and social fields are respected*" (Article 50), the new Draft Constitution (Article 15) refers only generally to "*human and civil rights*", and adds that these rights "*may be restricted when necessary for reasons of defence, national security, public order and safety, morality and health of the community*".¹ Moreover, although the government actively solicited public proposals to

¹ Vietnam Law and Legal Forum (VLLF), No. 221-222, January & February 2013.

amend the Constitution, citizens who called for the abolition of Article 4 were sanctioned and harassed.²

Cooperation with UN Human Rights Mechanisms and Special Procedures

Recommendations accepted by Vietnam: *“Increase cooperation with all mechanisms of the United Nations human rights system, including special procedures and treaty bodies” (Brazil); “Reengage with the Special Rapporteur on freedom of religion” (United Kingdom).*

7. Vietnam is a state party to five core UN human rights treaties. However, as the UN Independent Expert on Extreme Poverty, Magdalena Carmona said on her visit to Vietnam in 2010: *“being party to international human rights instruments is not sufficient: international standards must be incorporated into domestic legislation”*.³

8. Vietnam has not improved compliance with treaty body reporting mechanisms. Its periodic report to the ICCPR is overdue since 2004. It also failed to implement the recommendations of treaty bodies. During the period under review, the CERD called on Vietnam to abrogate “national security” provisions in the Criminal Code which criminalize freedom of opinion, expression and religion, repeal discriminative laws and practices, and abolish administrative detention.⁴ Prior to 2009, Vietnam disregarded repeated similar recommendations by the CEDAW (2006), the UN Human Rights Committee (2002), the UN Working Group on Arbitrary Detention (1995) and the UN Special Rapporteur on Religious Intolerance (1998).

9. Cooperation with UN human rights mechanisms remained unsatisfactory. Since 2009, four Special Procedures made *in situ* visits to Vietnam. However, their visits were controlled and, in some cases, restricted. Ms. Gay McDougall, UN Independent Expert on Minority Issues was prevented from meeting members of “non-recognized” religious groups, and regretted that she did not have *“free and unfettered access to all parties whom she wished to consult”* during her visit in July 2010.⁵ Vietnam did extend an invitation to the Special Rapporteur on Freedom of Religion or Belief. However, the government has fixed no date for the visit, despite repeated reminders by the Special Rapporteur. Vietnam did not accept the request for a visit by the Special Rapporteur on Freedom of Opinion and Expression.

² On 26 February 2013, Nguyen Duc Kien, a journalist on the state-run newspaper “Family and Society” was fired and threatened with prosecution less than 24 hours after writing a post on his personal blog criticizing the Secretary-general of the Communist Party Nguyen Phu Trong. He is accused of *“violating the operating rules”* of the newspaper. The 29-year-old journalist disagreed with a speech made during a public debate on revising the 1992 Constitution in which the Communist Party leader said that calling for pluralism, a multiparty system and separation of power represented a *“deterioration”* of Vietnamese society.

³ Mission to Vietnam, Report by the UN Independent Expert on the question of human rights and extreme poverty, Ms. Magdalena Sepulveda Carmona and Press Release on conclusion of the visit. www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10282&LangID=E

⁴ Concluding observations of the Committee on the Elimination of Racial Discrimination. January 2012 <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.VNM.CO.10-14.pdf>

⁵ Report of the Independent Expert on Minority Issues, Gay McDougall, Mission to Vietnam, 5-15 July 2010, A/HRC/16/45/Add.2.

10. Since 2009, Vietnam has responded to the UN Working Group on Arbitrary Detention's (WGAD) individual complaint review process. However, it has systematically ignored WAGD's recommendations to release prisoners detained in violation of international law.⁶

The Administration of Justice and Rule of Law

Recommendations accepted by Vietnam: *“Take the necessary steps to comply with ICCPR and make sure the right to a fair trial based in law is guaranteed” (Argentina); “Take concrete steps to effectively ensure that all persons deprived of their liberty are brought before a judge without delay” (Austria).*

11. **The Right to a Fair Trial:** The Courts are not independent in Vietnam, and trials are routinely unfair. Under the provisions of the 1992 Constitution, justice is administered through the People's Courts, the People's Office of Supervision and Control, and by Military Tribunals. Their role is to *“safeguard socialist legality and the socialist regime”* (Article 126). Trials are presided over by Judges and People's assessors. Although nominally independent *“during trials”* (article 130), judges and assessors at all levels are elected under a system closely supervised by the Vietnamese Communist Party, the National Assembly and the Fatherland Front. Defence counsel cannot sincerely defend prisoners without risking harassments, expulsion from the bar and even imprisonment themselves.⁷

12. Since its last UPR, Vietnam has conducted a series of major political trials which contravened standards of fairness and impartiality. Detainees were held virtually *incommunicado* during pre-trial detention, often beyond legal limits. With little access to legal counsel, they were unable to prepare their defence. Trials were closed to the public and family members, and media and diplomatic observers were restricted or banned. Security forces surrounded the courts during trials in Ho Chi Minh City, Hanoi and Haiphong, blocking road access, jamming cell-phone reception and beating and arresting supporters waiting outside the courts. Defence lawyers were not given access to the full file of accusations against their clients, and were often not notified of the trial date until the last minute. During the trial of the Club of Free Journalists (bloggers Dieu Cay Nguyen Van Hai, Ta Phong Tan and Phan Van Hai) in September 2012, the Court cut off the microphone when Dieu Cay spoke to defend himself, rejected his lawyer's demand to call witnesses for the defence and failed to produce evidence

⁶ Opinion 1/2009 on Dieu Cay, Nguyen Viet Chien, Nguyen Van Hai, Truong Minh Duc, Pham Van Troi, Nguyen Xuan Nghia, Ms. Pham Thanh Nghien, Vu Hung, Ms. Ngo Quynh and Nguyen Van Tuc; Opinion 6/2010 on Father Nguyen Van Ly; Opinion 24/2011, August 2011 (A/HRC/WGAD/2011/24) on Cu Huy Ha Vu ; Opinion 46/11/(A/HRC/WGAD/2011/46) on Tran Thi Thuy, Pham Ngoc Hoa, Pham Van Thong, Duong Kim Khai, Cao Van Tinh, Nguyen Thanh Tam and Nguyen Chi Thanh; Opinion 27/2012 (A/HRC/WGAD/2012/27) on Tran Huynh Duy Thuc, Nguyen Tien Trung and Le Thanh Long; Opinion 42/2012 (A/HRC/WGAD/2012/42) on Nguyen Hoang Quoc Hung, Do Thi Minh Hanh and Doan Huy Chuong; Opinion 18/2005 18/2005 on Thich Quang Do and Thich Huyen Quang (Opinion 18/2005, 26.5.2005).

⁷ In August 2011, lawyer Huynh Van Dong was struck off the Dak Lak Bar Association on accusations of “advocating on behalf of accused individuals” because he protested being denied access to vital legal documents whilst defending land-rights activists at a trial in Ben Tre in May 2011. VCHR Alternative Report on CERD, 2012, P. 15 - http://www.queme.net/eng/news_detail.php?numb=1780

cited in the charges laid against him.⁸ They were sentenced respectively to 12, 10 and four years in prison, followed by several years of “probationary detention” (*quản chế*).⁹ The UN High Commissioner for Human Rights, Navi Pillay, declared that the verdict “*undermine[d] the commitments Vietnam has made internationally, including during the UPR, to protect and promote the right to freedom of expression*”, and noted that “*the harsh prison terms handed down to the bloggers exemplify the severe restrictions on freedom of expression in Vietnam*”.

13. **Mobile trials:** As part of a government crack-down in the Central Highlands in 2010-2011, provincial Courts conducted “mobile trials” of ethnic Christians charged with national security offences, such as affiliations with FULRO or Dega Protestantism. Whereas most trials are closed to the public, mobile trials are showcased to crowds of hundreds, reportedly to frighten communities and warn them against following Dega Protestantism.¹⁰

14. **Unlawful Pre-trial Detention:** Since 2009, in violation of the 2003 Criminal Procedures Code and international obligations, Vietnam has held defendants in pre-trial detention for excessive periods and under extremely harsh conditions. Blogger Dieu Cay was detained *incommunicado* for 23 months before the authorities announced his whereabouts in February 2012. Many defendants were held without any notification to their families, in violation of Article 88.4 of the Criminal Procedures Code. In October 2013, University student Nguyen Phuong Uyen, 21, was detained *incommunicado* for three weeks, during which she was coerced into making a “public confession” later shown on state-run TV.¹¹

15. **Administrative Detention:** Since the last UPR, at least three peaceful pro-democracy activists were detained under Ordinance 44 on “Regulating Administrative Violations”, which empowers local officials to detain citizens under house arrest, in psychiatric institutions or “education camps” arbitrarily, without safeguards, any due process of law or trial.¹² Ordinance 44 is particularly used to target political and religious dissidents. Decree 76/2003/ND-CP on “education camps” prescribes detention conditions far below minimum international standards. Inmates engaged in hard labour are allowed a mere 800 grammes of meat or fish per month, two sets of underwear per year, one blanket every two years and floor space (not beds) for sleeping. According to inmates’ reports, even these quotas are not met in practice.

⁸ Dieu Cay, Ta Phong Tan and Phan Thanh Hai were sentenced respectively to 12, 10 and four years in prison, followed by several years of “probationary detention”.

⁹ Observatory on Human Rights Defenders, 28.9.2012 - <http://www.fidh.org/Viet-Nam-Three-pro-democracy-12230>

¹⁰ VCHR Alternative report to the CERD on “Violations of the Rights of Ethnic and Religious Minorities in Vietnam”, 2012 (cf. note 5).

¹¹ Police arrested Nguyen Phuong Uyen (21) on 14 October 2012, then denied all knowledge of her arrest. Only after strong public outcry in Vietnam, including a Petition signed by 144 prominent Party veterans and intellectuals, they revealed that she was detained in a prison in Long An. She was accused of “anti-State propaganda” for writing poems critical of China and sentenced to six years in prison on 16 May 2013 along with her colleague Dinh Nguyen Kha, who received an 8 year sentence. Prison wardens prohibited Uyen’s mother from visiting her, but told her to bring food parcels for her daughter “*because the prison does not provide enough to eat*”. See FIDH & VCHR: Bloggers and Netizens Behind Bars – Restrictions on Internet Freedom in Vietnam, 2013. http://www.queme.net/eng/doc/Bloggers_behind_Bars_FIDH-VCHR_2013.pdf

¹² Blogger Le Anh Hung and pro-democracy activists Bui Thi Minh Hang and Nguyen Trung Linh, cf note 7; VCHR Press Release 2013.01.26 http://www.queme.net/eng/news_detail.php?numb=1987 and Joint Letter by Observatory for Human Rights Defenders and VCHR, http://www.queme.net/eng/news_detail.php?numb=1991

Legal reforms

Recommendations accepted by Vietnam: “continue to work to ensure key pieces of national legislation, including the 1999 Penal Code and 2003 Criminal Procedures Code, are consistent with its international human rights treaty commitments” (Australia); “pursue the judicial and administrative reforms with a time-bound action plan to build an effective, open and transparent legal system based on the rule of law” (Turkey).

16. Vietnam has made no progress in reforming the Criminal Code and the Criminal Procedures Code to bring them into line with the ICCPR. On the contrary, since 2009, it has intensified the use of vaguely-worded “national security” provisions in the Criminal Code to arrest peaceful activists and human rights defenders. These offences carry prison sentences of up to life imprisonment or the death penalty. Hundreds of bloggers, online journalists and cyber-dissidents have been imprisoned for “conducting propaganda against the Socialist Republic of Vietnam” (Article 88), “abusing democratic freedoms to encroach on the interests of the state” (article 258), “undermining national solidarity, sowing divisions between religious and non-religious people”, (article 87). In two prominent trials in January and February 2013, 26 bloggers, human rights defenders and peaceful environmentalists received sentences of up to life imprisonment on charges of “activities aimed at overthrowing the people’s administration” (Article 79) for acts of peaceful expression.

The Right to Life, Liberty and Security of the Person

Recommendations accepted by Vietnam: “Fulfill the Government aim of limiting the use of capital punishment promptly by reducing the scope of crimes subject to the death penalty” (Norway); “reduce the number of offences punishable by the death penalty” (Germany).

17. **The death penalty** continues to be applied in Vietnam for a range of economic and “national security” crimes. No reforms have been made since Vietnam’s last UPR, and statistics on the number of executions remained classified as “state secrets”. In July 2011, Vietnam adopted new legislation to carry out executions by lethal injections rather than the firing squad. According to the state-controlled media, the law was aimed to make executions “more humane” and relieve the psychological pressure on executors, many of whom were suffering from trauma. Since the law was adopted, however, Vietnam could not obtain the lethal drugs because of a ban imposed by the EU. The authorities continued to pronounce death sentences (an average of 100 per year), and now over 500 prisoners are awaiting execution on death row under inhumane conditions. To reduce this backlog, in May 2013, Vietnam adopted Decree 47/2013/ND-CP which legalizes the use of vaguely defined “domestic poisons” for execution, the effects of which are unknown. The government announced it would begin the executions of 170 prisoners as soon as the law comes into effect on 27 June 2013.

18. **Detention Conditions and Ill-treatment of prisoners:** At its UPR, Vietnam rejected proposals to improve detention conditions in its prisons and camps, and has not implemented recommendations to this effect made by the UN Working Group on Arbitrary Detention after

their visit to Vietnam in 1994. However, as a state party to the ICCPR, Vietnam is bound to ensure that detained persons are treated with humanity (Article 10, ICCPR).

19. Prisoners released between 2009-2013 report that prisons are overcrowded and insalubrious. Food rations are grossly insufficient, and prisoners have to rely on support from their families to buy food and other basic necessities in prison canteens where police-set prices are exorbitant. Forced labour is obligatory, and those who are too weak or ill to complete production quotas are punished by shackling or solitary confinement in cramped cells with no light or ventilation. Medical care is available only to those who can pay, and many prisoners are gravely ill from beatings, exhaustion and lack of medical care. In Section K2 of Z30A Xuan Loc Camp in Dong Nai, one prisoner is now suffering from AIDS after being forced to shave with the sole razor blade used by all the prisoners. Others are paralyzed, deaf or blind.¹³

20. Political prisoners are subjected to a particularly harsh regime. Their clothes and utensils are marked with the letters “C.T.” (*chính trị* - “political” in Vietnamese). Unlike common criminals, they not allowed pens and paper, denied the right to receive regular visits and food parcels, and kept on low rations.¹⁴ Prisoners are frequently sanctioned with detention in cramped solitary confinement cells which have no light or ventilation. They are shackled night and day.¹⁵ Prison regulations allow inmates to file complaints, but they are never addressed.¹⁶ Such inhumane treatment violates Vietnam’s Regulations on Detention Conditions regulated by Government Decree 113/2008 and Article 10 of the ICCPR.

The Right to Freedom of Expression

Recommendations accepted by Vietnam: “Fully guarantee the right to receive, seek and impart information and ideas in compliance with article 19 of ICCPR” (Italy); “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” (Sweden).

21. Since Vietnam’s last UPR, it has made no steps to respect this pledge. On the contrary, Vietnam has stepped up legal restrictions on freedom of expression, both online and off-line, and cracked down heavily on journalists, netizens and bloggers. Constitutional guarantees of press freedom (Article 69) are nullified by a whole range of domestic laws and regulations which

¹³ “Arbitrary Detention of pro-democracy and Religious Activists in Vietnam”, testimony by Vo Van Ai before the Tom Lantos Commission on Human Rights, USA 15.5.2012. http://www.queme.net/eng/docs_detail.php?numb=1837

¹⁴ FIDH & VCHR Report, 2010: “Vietnam: From “Vision” to facts – Human Rights in Vietnam under its Chairmanship of ASEAN - http://www.queme.net/eng/doc/From_Vision_to_Facts_-_Human_Rights_in_Vietnam.pdf

¹⁵ Pro-democracy activist Tran Huynh Duy Thuc, who was condemned to 16 years in prison in January 2010, has been held in solitary confinement several times, most recently in June 2013 for a period of 10 days. Fellow prisoners report that he could not sleep because of the smell of excrement and urine. Prisoners in solitary confinement are given one litre of water a day for drinking and washing, as well as a bucket for use as a toilet.

¹⁶ Prominent dissident Cu Huy Ha Vu began a hunger strike in June 2013 in Prison Camp No. 5 in Thanh Hoa to protest the Camp’s refusal to address complaints he filed in November 2012 after being the victim of harassment, bullying and death threats by a Camp warden. Political prisoner Nguyen Huu Cau, who is serving life in prison for writing poems criticizing the Communist Party in Z30A Prison Camp in Xuan Loc has written 500 letters demanding the right to an appeal trial, without receiving any reply (cf. footnote 9).

prohibit all spoken or written expression deemed to “*threaten the interests of the State*”. The press, radio and television are run by Party-controlled, military or government agencies. There is no privately-run, independent media in Vietnam.

22. On 25 February 2011, Media Decree 2/2011/ND-CP came into force, which imposes heavy fines on journalists who violate the decree’s overly broad and vague provisions, such as failing to “*provide 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. A reporter on an official newspaper who exposed corruption amongst traffic police in Ho Chi Minh City in 2012 was sentenced to four years in prison, even though his reports were proved to be true.¹⁷

23. **A draft Internet Decree** is in preparation which is fatally flawed and inconsistent with international human rights law and standards. If adopted in its current form, the Decree would oblige Internet companies in Vietnam to cooperate with the government in enforcing a range of vaguely-defined prohibited acts of expression. Article 5 prohibits acts 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.

24. **Bloggers and cyber-dissidents** who use the Internet to express peaceful critical views, write poetry or sing protest songs¹⁸ are a target of fierce government repression. Since 2009, the authorities have stepped up extra-legal practices such as house arrest, enforced disappearances, beatings, intimidation¹⁹ and pervasive surveillance, and even sexual assaults by Police.²⁰ Targeted individuals are left entirely outside the protection of law, without the ability to challenge and seek redress for their detention or ill-treatment. Netizens have also been denied the right to freedom of movement without justification. During this period, several bloggers were prevented from travelling overseas, including one who was invited to receive an

¹⁷ Hoang Khuong (Nguyen Van Khuong), a journalist on the state-run newspaper Tuoi Tre, was arrested in January 2012 and sentenced to 4 years in prison on 7 September 2012 for exposing police corruption - http://www.queme.net/eng/docs_detail.php?numb=1837

¹⁸ Singers and song-writers Viet Khang (Vo Minh Tri) and Tran Vu Anh Binh were sentenced respectively to four and six years in prison for posting songs on Youtube questioning government repression of peaceful demonstrations. On 16 May 2013, university student Nguyen Uyen Phuong (21) and computer technician Dinh Nguyen Kha (25) were sentenced respectively to six and eight years in prison followed by three years house arrest simply for writing poems and distributing leaflets critical of the government;

¹⁹ On 3 April 2013, plain-clothed security agents threw excrement and rotten fish into the home of Buddhist blogger Huynh Ngoc Tuan during the night in order to frighten him into stopping his online criticisms of government policies. Cf. VCHR Press Release http://www.queme.net/eng/news_detail.php?numb=2042

²⁰ On 28.12.2012, 25-year-old blogger Nguyen Hoang Vi was beaten savagely by Police, stripped naked and subjected to a humiliating vagina cavity search which was videotaped by male Police officers. She had been taken to the Police Station for a pretexted “identity check”. Ibid footnote 7.

award in the USA on behalf of his family.²¹ Another recent trend is to arrest pro-democracy activists and human rights defenders on trumped up criminal charges such as “tax evasion”.²²

25. **Online Censorship** is pervasive. Vietnam filters and controls Internet content and harshly punishes users. Since 2009, hundreds of blogs have been closed down. The government justifies online censorship as a measure to protect young people from accessing “unhealthy” sites. However, monitoring by international NGOs in 2012 showed that state-owned Internet Service Providers blocked critical political blogs and sites of domestic and international NGOs concerned with democracy, religious freedom and human rights, whereas sites with pornographic content were not blocked.

The Right to Religious Freedom

Recommendation said to be “in the process of implementation”: “Step up efforts to ensure the full respect of freedom of religion and worship, including by reviewing laws and provisions at all levels related to freedom of religion, in order to align them with article 18 of ICCPR” (Italy) (Poland).

26. Repression on religious grounds remains widespread. Since 2009, Vietnam has adopted legislation to reinforce controls and restrict the scope of religious activities. In January 2013, Decree 92 on “*Directives and measures for implementing the Ordinance on beliefs and religion*” came into effect which prohibits a wide range of activities perceived to “*abuse the right to freedom of belief or religion*”, and adds a number of new obligations and vaguely-worded provisions that give the authorities greater leeway to sanction and restrict religious activities. Rather than protecting religious freedom, the Decree is aimed at reinforcing State control or management of religions in Vietnam.²³

27. Religious policy is controlled by the Government Board of Religious Affairs (GBRA), the Vietnam Fatherland Front, the Communist Party’s Department of Propaganda and Mobilization and the Ministry of the Interior. In 2012, the government appointed Lt.-General Pham Dung, a former high-ranking official in the Ministry of Public Security, as head of the GBRA. He commands a network of “*religious police*” (A41) under who have full powers to control religious activities at all levels of society and in all aspects of the people’s lives.

28. The situation of the **Unified Buddhist Church of Vietnam (UBCV)**, adhered to by the majority of the Vietnamese population, is of particular concern. Banned effectively in 1981 following the creation of the State-sponsored Vietnam Buddhist Church, its leaders and

²¹ Huynh Trong Hieu was prevented from travelling to the USA to receive the Hellman Hammett prize for persecuted writers awarded to his father, Huynh Ngoc Tuan and sister Hoang Thuc Vy (cf footnote 7).

²² Lawyer and prominent activist Le Quoc Quan was arrested on 27 December for so-called “tax evasion”. He had previously suffered beatings and physical assaults by secret police because he attended demonstrations. Blogger Dieu Cay was also detained for “tax evasion” before being condemned to a second sentence for “anti-state propaganda” in 2012 (cf. footnote 7).

²³ *Government Decree 92 tightens controls of religions in Vietnam*, IBIB, 29.11.2012 http://www.queame.net/eng/news_detail.php?numb=1955

members are subjected to detention, intimidation and constant harassment. Despite repeated appeals from the international community, Vietnam has not re-established its legal status. Since Vietnam's last UPR, the authorities have intensified repression against UBCV members, prohibiting celebration of key Buddhist festivals such as the Vesak (Buddha's Birthday) and the Vu Lan (Wandering Soul's Day), subjecting UBCV leaders to beatings, house arrest and surveillance, harassing Buddhists who frequent "reactionary" UBCV Pagodas and smashing Buddha statues.²⁴ UBCV monk Thich Thanh Quang was beaten by hired thugs under the eyes of the Police in August 2012. Buddhist Youth leader Le Cong Cau was interrogated for three days in March 2013 and threatened with prosecution for posting articles on the Internet supporting the UBCV.²⁵

29. UBCV leader **Thich Quang Do**, 85, remains under house arrest without charge at the Thanh Minh Zen Monastery in Ho Chi Minh City. He has spent almost 30 years in detention for his peaceful advocacy of religious freedom and human rights. He is held under constant Police surveillance, and denied freedom of movement. A UK Parliamentary delegation visiting Vietnam in 2013 was prohibited from meeting Thich Quang Do by the Vietnamese authorities.²⁶

30. Since 2009, the authorities have intensified repression against ethnic Christian **Montagnards** in the Central Highlands and **Hmongs** in the Northern Highlands. Members of ethnic groups that peacefully resist assimilation policies, practice the faith outside State-sponsored churches, refuse pressure to recant their faith or peacefully advocate political and economic rights for their community are routinely subjected to threats, harassments, fines, arbitrary expulsion from their homes and public denunciation sessions organized by the military, police and local authorities. In May 2011, armed military and special force units using machine guns fired on a peaceful gathering of Hmong Christians in Dien Bien Province, killing scores of people and wounding hundreds.²⁷

31. **Khmer Krom Buddhists** in southern Vietnam suffer from religious persecution and land confiscation. Buddhist monks have been subjected to defrocking, arrest and forced disappearances.

²⁴ In December 2012, the Government Board of Religious Affairs (GBRA) ordered the destruction of Buddha statues in a Buddhist site on Ba Ra Mountain in Binh Phuoc Province to make place for a tourist centre. The Commission mandated to oversee the "removal" of the statues was made up of officials from the GBRA, the People's Committee and the State-sponsored Vietnam Buddhist Sangha. The destruction operations were led by the head of the Binh Phuoc office of the GBRA Nguyen Huu Tu. Buddhist monk Thich Ngo Chanh denounced the smashing of the statues and posted footage and interviews in a Youtube in May 2013.

²⁵ *"The State's Policy of Repression against the Unified Buddhist Church of Vietnam"*, Testimony to US Congressional Hearing on Human Rights in Vietnam, Vo Van Ai, 14 April 2013. http://www.queme.net/eng/news_detail.php?numb=2046.

²⁶ *"British Parliamentary Delegation is barred from visiting Buddhist leader Thich Quang Do"*, IBIB 5 June 2013, http://www.queme.net/eng/news_detail.php?numb=2085

²⁷ Ibid footnote 5.

The Right to Freedom of Association and Peaceful Assembly

Recommendations accepted by Vietnam: *“Continue to maintain and strengthen the economic, political and social model of Viet Nam to guarantee the full participation of the population in public and security affairs” (Lao People’s Democratic Republic).*

32. Although **freedom of association** is guaranteed by the 1992 Vietnamese Constitution, the exercise of this right remains significantly restricted in Vietnam. There are no independent non-governmental organisations (NGOs). All associative activity is strictly controlled by the Vietnamese Communist Party (VCP) and the Vietnam Fatherland Front, an umbrella of *“mass organisations”*, whose role is to reinforce the VCP’s control over the population and implement its policies in political and religious affairs.

33. Since its last UPR, Vietnam has increased legal restrictions on the operations of domestic and international associations. In July 2009, the Prime Minister issued Decree 97 limiting private research organisations to a list of 317 topics and banning them from publishing results bearing on government policies. This decision forced Vietnam’s only independent think tank, the Vietnam Institute of Development Studies, to close down.

34. Decree 12 on *“Registration and Management of Operation of International NGOs in Vietnam”*, promulgated in 2012, facilitates registration but increases government control of the implementation of INGO programmes. It includes a host of *“prohibited activities”* for INGOs such as *“organizing or carrying out political, religious or other activities that are inconsistent with State interests or the security, defense and great unity of the Vietnamese people (Article 4).* These clauses give the government great discretion in stopping “unwanted” INGO programmes from operating in Vietnam.

35. Although **freedom of peaceful assembly** is guaranteed in the Vietnamese Constitution, Vietnam systematically suppresses peaceful demonstrations and punishes protesters under criminal laws such as Decree 38/2005, which bans demonstrations outside public buildings, and the “Directives for Implementing Decree 38” (2006) which prohibits public gatherings of more than five people without authorization. In August 2011, Police forcefully disbanded demonstrations in Hanoi and Ho Chi Minh City against perceived Chinese encroachments on Vietnamese territories, arresting scores of people. In 2012, peaceful demonstrations of peasants and farmers known as the “Victims of Injustice” protesting state confiscation of lands and forced evictions were suppressed with extreme violence in Tien Lang, Van Giang and Vu Ban. In May 2013, young people who tried to hold gatherings in public parks in Hanoi, Nhatrang and Ho Chi Minh City for “human rights picnics” to discuss the UN Universal Declaration on Human Rights were impeded by Police. Bloggers, dissidents and UBCV monks were intercepted by security agents and local militia to prevent them attending these gatherings.²⁸

²⁸ *Security Police surround Giac Hoa Pagoda*, 7 May 2013, IBIB http://www.queme.net/eng/news_detail.php?numb=2067

Social, Economic and Cultural Rights

Recommendations accepted by Vietnam: *Take active measures to close the gap between rich and poor and between the mountainous and urban areas” (China); “Continue and enhance efforts to reduce the poverty level, especially for vulnerable groups, so as to boost employment, improve access to health and increase available social housing” (Côte d’Ivoire)*

36. Economic liberalization under the policy of renovation (*đổi mới*) has seriously restricted the access of poor people and vulnerable populations to basic social services such as health and education. With the introduction of “*user fees*”, health and education have become paying commodities. This has seriously penalized people in rural areas, and lead to alarming disparities between ethnic minorities and the Kinh (Vietnamese) people. Vietnam’s lack of progress in implementing reforms led to a rising poverty gap during the period under review.

37. One cause of disparities in health and education access is the *hộ khẩu*, or **system of household registration**. This is an obligatory permit which gives access to housing ownership, health care, education and other key public social services. The system is divided into five categories of residents. People without permanent residence status (“temporary migrants” of KT3 and KT4 status) have to pay higher prices for electricity and pipe water consumption compared to local residents. The *hộ khẩu* is also required to obtain birth certificates for newborns (Decree 81/1998/ND-CP). Parents who are refused *hộ khẩu* cannot obtain birth certificates, and thus cannot register their children for schooling. They also cannot obtain government-provided financial support for disadvantaged pupils to cover textbook or learning aids, nor access free medical care and other welfare bonuses, since these all require that pupils have permanent household registration status. Ethnic minorities who are denied *hộ khẩu* because of their religious affiliations or non-sedentary lifestyle suffer grave denial of economic and social rights in all aspects of their daily lives.

38. **The Right to Work and to Just and Favourable Conditions of Work** is seriously undermined by government policies of economic liberalization in Vietnam and the absence of legal and social safeguards. Vietnam has attracted foreign investment by keeping wages low (the minimum wage is fixed by the government), and worker rights are routinely sacrificed for greater profits. Workers operating in toxic or dangerous environments are often not supplied with protective clothing, and work-related accidents and deaths are on the rise.

39. Since 2009, the number of strikes to protest poor working conditions and bad pay have increased significantly (up to 1,000 strikes in 2011, double the number in 2010). The right to strike is severely restricted. Strikes in state-owned firms, public services and sectors considered important to national economy and defence are banned. Decree 41, adopted in 2013, prohibits strikes in six major sectors, including national security. The Prime Minister can terminate any strikes perceived to be “*detrimental to the national economy or public safety*”. Under Decree 11/2008, if a strike is ruled illegal, workers must pay compensation to their employers for “losses and damages”. In 2011, 95% of the strikes were deemed to be illegal.

40. The Labour Code does not authorize **freedom of association**. All labour unions are under the umbrella of the "Vietnam General Confederation of Labour" (VGCL) controlled by the VCP. Free trade unions are prohibited. Under the 2013 Law on Trade Unions (12/2012/QH13), foreigners are prohibited from establishing or joining trade unions. This is a step backwards for worker rights, as the former law allowed the participation of foreign and Vietnamese workers alike. In 2010, several young labour activists were condemned to harsh prison terms simply for seeking to protect workers' rights and demanding the right to form independent trade unions.

The Rights of Women

Recommendations accepted by Vietnam: *"Maintain its commitment to striking a balance between the opening up of its economy and minimizing the adverse impacts on the most vulnerable and disadvantaged groups in the society" (Lebanon).*

41. The negative effects of economic liberalization have particularly impacted women. Despite legal commitments taken by the government to promote gender equality, grave abuses of women's rights such as domestic violence, trafficking of women and girls, prostitution, the growing problem of HIV/AIDS and violations of reproductive rights remain widespread.

42. **Trafficking of young girls and women for sexual exploitation**, often with the connivance of Party and Police officials, has literally exploded. Young women are recruited through fraudulent marriages, false promises of employment, licensed and unlicensed migrant labour recruiting agencies and sent mainly to Cambodia, China, Thailand, Hong Kong, Macau, Malaysia, Taiwan and South Korea, where they are victims of sexual and labour exploitation.

43. Victims of trafficking who escape and return to Vietnam have no legal protection. Many rural women find that their land has been confiscated during their absence. If they have children born overseas, the children are not entitled to the obligatory residence permit, or "*hộ khẩu*", and become illegal citizens, deprived of the right to education and health care.

44. **Land rights:** Lack of implementation, lack of awareness, insufficient information, widespread official corruption, power abuse and the lack of an impartial judiciary have resulted in mass abuses of women's right to land. Although the revised Land Law entitles women to register Land Use Rights Certificates along with their husbands, this is not widely implemented, resulting in prolonged denial of women's access to land. Widows find themselves expropriated without the slightest compensation when their husband dies. Banks refuse to give loans to widows because the LURCs only mention the deceased husband's name.

Recommendations

45. The FIDH and the VCHR call upon Vietnam to take all necessary steps to:

46. Immediately and unconditionally release all human rights defenders, journalists, religious and political dissidents detained for the peaceful expression of their political and other opinions or religious beliefs;

47. End censorship, mass surveillance, and all acts of harassment, including at the judicial level, against all human rights defenders, including those using the Internet and ICTs for their human rights work, and comply with the provisions of the 1998 UN Declaration on Human Rights Defenders;
48. Implement the recommendations of the UN Human Rights Committee by bringing domestic legislation into line with international human rights law and immediately repealing all legislation restricting the exercise of internationally recognised human rights; in particular:
- a) Immediately repeal Ordinance 44 on “Regulating Administrative Violations”, and release all those currently detained under house arrest, in “education” 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; 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;
49. Ensure that any amendments to the Vietnamese Constitution conform with the ICCPR, the ICESCR and other key international human rights standards;
50. Guarantee the right to due process of law, including the right to a fair trial; defendants should be able to meet their lawyers to adequately prepare their defence; defence lawyers must have the right to present relevant evidence in court; defendants should be allowed to speak in their own defence;
51. Conform with the UN Standard Minimum Rules on the Treatment of Prisoners; abolish forced labour and end practices of torture and ill-treatment of prisoners; ratify and implement the UN Convention against torture;
52. Re-establish the legitimate status of the Unified Buddhist Church of Vietnam (UBCV) and all other non-recognized religious organisations and allow them full freedom of religious activity; cease harassment and detention of UBCV members and other religious followers; revise Decree 92 and repeal all legislation that restricts the right to freedom of religion or belief;
53. Guarantee freedom of media, authorize the publication of independent newspapers and cease legal sanctions and harassment against journalists and citizens expressing peaceful views through the printed media, Internet or radio;
54. Adopt a Law on Associations that guarantees the right to form associations outside the framework of the Communist Party, thus fostering the emergence of independent civil society;
55. Amend the new Labour Code to bring it into line with the ICCPR and all ILO requirements; allow the establishment of independent trade unions; release all those detained for peaceful activities to promote worker rights;

56. Increase the minimum wage to ensure a decent living wage for all workers, as required by Article 7 of the ICESCR, ratified by Vietnam;
57. Implement the recommendations of the UN Committee on the Elimination of Discrimination against Women; take stronger measures to combat trafficking for labour and sexual exploitation; remove any administrative obstacles in the Land Law that may prevent the issuance of joint land use certificates to husbands and wives.
58. Put an immediate end to forced evictions carried out in contradiction with international human rights law, in particular the *Basic principles and guidelines on development-based evictions and displacement* presented by the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living; ensure that domestic legislation expressly prohibits forced evictions in principle and effectively in practice; only very limited exceptions should be admitted, in conformity with the ICESCR.
59. Implement the recommendations of the Committee on the Elimination of Racial Discrimination to abolish the discriminative mechanism of the *hộ khẩu* (residence permit); Immediately fix a date for the *in situ* visit of the Special Rapporteur on Freedom of Religion or Belief; issue standing invitations to UN special procedures, notably the UN Special Rapporteur on Freedom of Opinion and Expression, the UN Working Group on Arbitrary Detention and the UN Special Representative on Human Rights Defenders;
60. Establish a moratorium on the death penalty as a first step towards abolishment of capital punishment under all circumstances; meanwhile, review national security provisions in the Criminal Code to ensure that no-one may incur the death sentence simply for expressing views opposing those of the Communist Party; lift the classification of “state secrets” on capital punishment;
61. Ratify the UN Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families;
62. Allow unhindered access to the country by international human rights NGOs.