



**MEMORANDUM ON THE SITUATION OF HUMAN RIGHTS
IN THE SOCIALIST REPUBLIC OF VIETNAM
Meeting of the EU/Vietnam Joint Commission, Brussels
November 2003**

The human rights situation in Vietnam took several steps backwards in 2002-2003, particularly in the domains of freedom of expression and religion. Several prominent dissidents and religious leaders were condemned to harsh prison sentences, placed under house arrest or subjected to various forms of surveillance, harassment and intimidation for the expression of their opinions and beliefs. Several new laws were passed which restrict the exercise of human rights.

I. Legal framework in contradiction with international human rights standards

Whilst fundamental freedoms and rights are enshrined in the 1992 Constitution of the Socialist Republic of Vietnam, the exercise of these rights is severely restricted by provisions in the Constitution and other domestic legislation which condition human rights on compliance with “*the interests and policies of the State*”. Since State policies are established and enforced solely by the Vietnamese Communist Party (VCP), which holds a political monopoly and “*acting upon Marxist-Leninist doctrine and Ho Chi Minh thought, is the leading force of society and the State*” (Article 4 of the Constitution), citizens face systematic arrest and detention for expressing peaceful criticisms or calling for democratic reforms. In addition, the executive, legislative and judiciary powers are all under Communist Party control.

In July 2002, when Vietnam submitted its periodic report on its implementation of the UN International Covenant on Civil and Political Rights (ICCPR) to which it acceded in 1982, the UN Human Rights Committee expressed particular concern that these provisions in domestic legislation impeded the enjoyment of individual rights, and were thus incompatible with the ICCPR¹.

Vietnam routinely invokes a wide range of “national security” provisions in the Criminal Code to criminalize the peaceful exercise of freedom of opinion, expression, religion and association. National security offences carry very heavy prison sentences, and fourteen are punishable by death. The broadly-defined, catch-all concept of “*national security*” makes no distinction between violent acts, such as terrorism, or the peaceful, legitimate exercise of freedom of expression. It includes such vague “crimes” as “*undermining the unity policy*”,

¹ CCPR/CO/75/VNM, 28 July 2002

"sowing divisions between religious and non-religious people", (Article 87) "distorting or defaming the people's administration", "making, storing or circulating documents or cultural products with contents against the Socialist Republic of Vietnam" (Article 88). Article 258 of the Vietnamese Criminal Code, which provides for prison sentences of up to three years for "abusing democratic freedoms to encroach upon the interests of the State and social organizations" is also routinely invoked to detain government critics and followers of non-recognized religious movements.

Many dissidents are detained under Decree 31/CP on "Administrative Detention" (*quan che hanh chanh*), adopted in 1997. This Decree empowers local Security Police to arrest and detain suspected "national security" offenders for up to 2 years without a Court order. Since detainees are not brought to trial, they have no opportunity for legal defence. In 2002-2003 alone, this decree was notably invoked to detain Buddhist monks calling for religious freedom (**Thich Tue Sy, Thich Thanh Huyen, Thich Nguyen Ly and Thich Dong Tho** in October 2003), citizens protesting Vietnam's border treaty with China (journalist **Bui Minh Quoc** in January 2002). This Decree not only violates Vietnam's international obligations, but it contravenes its own Constitution (Article 72), which provides that no-one can be detained without a due process of law.

In the post-11th September era, Vietnam has escalated the use of national security crimes such as "espionage" (Article 80 of the Criminal Code) to arrest peaceful critics and "cyber-dissidents" for expressing opinions via the Internet. Also punishable by death, "espionage" covers non-political acts such as "gathering or supplying information and other materials (i.e. not State secrets) for use by foreign countries against the Socialist Republic of Vietnam". This means that dissidents may face the death penalty simply for circulating opposition views overseas.

Among dissidents recently detained under Article 80 are **Nguyen Khac Toan**, sentenced to 12 years prison in December 2002 for helping farmers to file complaints to the National Assembly about State corruption and confiscation of land, and sending copies of these complaints overseas; **Pham Hong Son**, sentenced to 13 years prison on June 18th 2003 on charges of "espionage" because he translated articles on democracy downloaded from the US Embassy website (his sentence was reduced to 5 years in prison as a result of international pressure) ; retired Colonel **Pham Que Duong**, a respected Communist Party veteran and military historian, arrested in December 2002 for filing an application to set up an independent anti-corruption association and calling for democratic reforms. His trial is pending ; scholar **Tran Khue**, arrested in December 2002 along with Colonel Pham Que Duong. He is also awaiting trial ; **Nguyen Dan Que**, arrested in March 2003 outside his home in Ho Chi Minh City, accused of the "suspected intent" of sending information abroad at an Internet café. Dr Que has already spent 18 years in prison for his appeals for democratic reform.

II. Violations of the Right to Religious Freedom

Religious freedom came particularly under assault in 2002-2003. Only six "State-sponsored" religious bodies are officially recognized in Vietnam (Buddhist, Roman Catholic, Protestant, Cao Dai, Hoa Hao and Muslim). Independent religious organizations are illegal, although no legislation has ever been adopted to ban their legal existence. Members of "unrecognized" religious bodies, including the Unified Buddhist Church of Vietnam, the Hoa Hao Buddhist sect, the Cao Dai and the independent Protestant Churches are detained, fined,

imprisoned, placed under administrative detention and kept under strict police surveillance for engaging in “illegal” religious activities.

In September 2002, Vietnam refused the request of a visiting delegation of the European Parliament led by the Hon. Hartmut Nassauer MEP, to visit religious leaders Thich Huyen Quang, Patriarch of the Unified Buddhist Church of Vietnam (UBCV), his Deputy Thich Quang Do and Roman Catholic priest Father Nguyen Van Ly.

- increased repression against the UBCV

The traditional, independent Unified Buddhist Church of Vietnam (UBCV) remained a target of concerted repression in 2003, despite a landmark meeting in April 2003 between the Vietnamese Prime Minister Phan Van Khai and UBCV Patriarch Thich Huyen Quang. This meeting, which was widely acclaimed as a positive step towards increased religious tolerance, took place in Hanoi after the 86-year-old UBCV Patriarch was allowed to leave house arrest for the very first time in 20 years to undergo medical treatment. Although he made no concrete promises, Prime Minister Khai said the government had made many mistakes regarding Buddhism in the past, and promised to redress them.

On the basis of these promises, UBCV leaders Thich Huyen Quang and Thich Quang Do decided to reorganize UBCV structures and appoint monks to functions which had been vacant since the UBCV was outlawed in 1981. A meeting was called on September 16-19th at the Nguyen Thieu Monastery in Binh Dinh. Security Police sought to obstruct this meeting by preventing many senior UBCV monks from attending, and harassing and intimidating its participants. A second meeting was therefore called on October 1st.

The government reacted to these peaceful meetings by launching one of the worst crack-downs in years against the outlawed UBCV (see urgent call of the Observatory for the Protection of Human Rights defenders enclosed, 29 Oct. 2003).

Since the crackdown was launched on October 8th, Monasteries and Pagodas all over central and southern Vietnam have been placed under round-the clock surveillance, hundreds of phone lines have been cut, lap-top computers confiscated, E-mail accounts jammed, and mobile phones seized or blocked after the first call. Security Police and undercover security agents are now equipped with small machines which enable them to monitor and intercept mobile phone calls immediately. Instead of concealing these machines as in previous intelligence operations, Security agents now sit in cafes outside UBCV Pagodas, brazenly displaying the equipment. Firewalls to overseas websites have also been increased in an attempt to stem the free flow of information between Vietnam and the “outside” world.

Thirty of the 41 monks appointed to the new UBCV leadership are now under house arrest or subjected to restrictions on their freedoms and rights.

The case of UBCV member **Thich Tri Luc** is also of particular concern. Thich Tri Luc “disappeared” in Phnom Penh in July 2002 after he fled to Cambodia to escape religious persecution in Vietnam. He was forcibly repatriated by Vietnamese Security agents, arrested and detained *incommunicado* in Vietnam for a year without any notification to his family. Thich Tri Luc was under UN protection when he was abducted in Phnom Penh (he had been granted refugee status by the UNHCR in June 2002). His trial is pending, and will reportedly be held shortly. Thich Tri Luc has been denied access to defence counsel, and it is feared that he will not benefit from a fair trial. Vietnam has systematically refused to provide the UNHCR with any information on his whereabouts or the circumstances of his detention.

- **Roman Catholic detainees** include Father Nguyen Van Ly, sentenced to 15 years in prison and 5 years probationary detention at an unfair trial in October 2001. His sentence was subsequently reduced to 10 years in prison as a result of international pressure.

On September 10th, three relatives of Catholic priest Father Nguyen Van Ly (2 nephews, **Nguyen Vu Viet**, 27, and **Nguyen Truc Cuong**, 36, and a niece, **Nguyen Thi Hoa**, 44) were sentenced to prison terms of 3-5 years for supporting his appeals for religious freedom and imparting and receiving information from overseas organizations via the Internet.

III. Freedom of Expression

Whilst freedom of expression and the press are guaranteed in the Vietnamese Constitution, the exercise of these freedoms is totally undermined by the Press Law, the Publications Law and numerous Decrees and Directives which oblige journalists to exercise self-censorship, prohibit them from travelling to sensitive areas and prevent Vietnamese reporters from frequenting foreign correspondents in Vietnam. The press and media are under Communist Party control, and independently-run publications are prohibited. In a recent editorial, the Communist Party People's Army daily, *Quan Doi Nhan Dan*, declared: "*Press freedom is dangerous... It is a destructive freedom that is unacceptable*".

In 2002-2003, restrictions on press freedom increased. In the one month of June 2002, the Government prohibited journalists from reporting on the notorious Nam Cam corruption scandal involving top-level Communist officials, introduced new controls on customer access in Internet cafés, and banned Satellite TV, restricting viewing to foreigners, top government officials and Party members.

Freedom of expression has come seriously under assault with the adoption of Decision 28 on Foreign Publications (Ministry of Culture and Information, November 21, 2002). Under this Decree, the publications of all foreign organizations in Vietnam, including diplomatic bodies, international NGOs, foreign business companies and even press agencies will be subjected to State censorship. Press releases, Internet output and all other documents deemed to infringe upon the interests of the Socialist State (Article 22, SRV Press Law) may hitherto be sanctioned.

"Cyber-dissidents" who use the Internet to circulate opposition opinions face severe prison sentences. **Le Chi Quang**, 32, was sentenced to four years in prison and two years probationary detention on November 8th 2002 on charges of "*circulating anti-Socialist propaganda*" because he circulated essays criticizing government policy on the Internet. His detention has been considered arbitrary by the UN Working Group on Arbitrary detention on 6 Mays 2003. He is still in prison.

Nguyen Dinh Huy, journalist and political opponent, was arrested in 1993, after having asked to be authorised to organise a conference on democracy in Hô Chi Minh. In August 1995, Nguyen Dinh Huy was condemned, after an unfair trial to 15 years in prison for plotting against the socialist power. He is currently detained in a reeducation camp Z30 in Xuan Loc, province of Dong Nai (South Vietnam).

IV. Freedom of Association and Peaceful Assembly

Although freedom of association and peaceful assembly are guaranteed in the Vietnamese Constitution, these rights are curtailed by “*national security*” and “*public order*” laws which prohibit public gatherings and proscribe the right to strike and demonstrate peacefully. There are no free trade unions in Vietnam, and strikes are prohibited in 54 sectors perceived to be “*of public service*” or important to national security or defence.

There are no local human rights NGOs in Vietnam, and independent human rights organizations, including the FIDH, have not been granted access to monitor human rights abuses. Fifteen Vietnamese Communist Party (VCP) veterans were arrested and placed under effective house arrest in September 2001 for their involvement in founding an anti-corruption association following a government drive to stamp out graft and corruption within Party ranks.

A new legislation is being prepared to curb the right to stage peaceful demonstrations. According to the official daily “*Lao Dong*” (13, January 2003), Minister Doan Manh Giao is preparing legislation to ban public gatherings in front of Party and government offices, and sanction anyone who “*uses complaints and petitions*” to incite people to demonstrate. This draft law would aim at suppressing the upsurge of peaceful demonstrations by peasants and farmers protesting official corruption and State confiscation of land. Many peasants have been arrested in the wake of these protests. On October 21st 2002, twelve villagers in Ninh Binh (northern Vietnam) received jail terms of up to 13 years on charges of “*causing social unrest*”, and twenty-one others were jailed in December 2002. Reacting to the peasants’ demonstrations in May 2002, Communist Party Secretary-general Nong Duc Manh declared that “*The fact that people gather with placards is abnormal.*” Democracy in Vietnam, he said, was “*in many cases excessive*”.

V. The Death Penalty and the Treatment of Prisoners

The death penalty is increasingly enforced in Vietnam for a wide range of economic as well as criminal and political offences. Execution is by firing squad. The official *Police Review* (Cong An) reports that condemned criminals are taken before dawn to a desolate site, read the court's verdict, offered a bowl of noodle soup and a cigarette, and allowed to write a last letter home. Then they are tied to a wooden pole, gagged with a lemon and blindfolded, then shot by a firing squad of 5-7 policemen. The commander then fires a last “*humane shot*” into the convict's ear. Executions take place at 4.00 am. Prisoners are not informed in advance of their execution date, and therefore stay awake in fear of being called, only sleeping at 6.00 am when they know their turn has not come.

On the death row, three to four prisoners are detained in each cell. The cells are extremely unhygienic, with one latrine bucket and no ventilation. Prisoners are not allowed to leave their cells except to receive visits, which are extremely rare. Their legs are chained to a long pole, and they are generally lined up in order of execution – the first to be executed being nearest the door. Occasionally, for “*humanitarian reasons*”, prisoners are allowed to change places in the line.

According to Amnesty International, in 2002, at least 48 people were sentenced to death and at least 27 were executed; the actual numbers were believed to be much higher².

² Amnesty International Annual Report, 2003; Amnesty International : Socialist Republic of Viet Nam : The Death penalty – inhuman and ineffective, August 2003.

According to the same source, in August 2003, 62 death sentences and 19 executions had been recorded – the double rate of last year. According to the Agence France Presse (AFP), 86 persons were condemned to the death penalty since January 2003, among which half for drug-related offences³.

There are at least 150 detention centres (prisons and reeducation camps) in Vietnam. Detention conditions are extremely harsh, especially in the reeducation camps, many of which are situated in deep forests or remote regions. Ill-treatment and corporal punishment is frequent. Prisoners also suffer from malnutrition and ill health due to excessively harsh forced labour quotas, insufficient food rations and lack of medical care. The UN Working Group on Arbitrary Detention has repeatedly requested to make a follow-up visit to Vietnam following its visit in 1994, but Vietnam has not responded to this request.

VI. Repression Against the “Montagnards”

Following unprecedented demonstrations in the Central Highland provinces of Gia Lai, Dak Lak and Kontum in February 2001, in which thousands of ethnic Montagnard tribespeople demonstrated in protest against religious persecution and State confiscation of lands, the authorities have continued to seriously abuse the rights of these mainly Christian indigenous peoples.

According to recent NGO reports, the Montagnard population in the central highlands is subject to martial law where hundreds of villagers have been tortured, beaten, killed or simply disappeared after arrest. As a result of this repression, thousands of Montagnards have attempted to flee to Cambodia where they have been hunted down and forcibly returned to Vietnam. In July 2003, Cambodian MP Son Chhay confirmed the Vietnamese government was paying bounties of \$66 for turning over Montagnard refugees to Vietnamese authorities. Recent incidents of human rights violations reported by the Montagnard Foundation include the following :

- On 16 October 2003 Vietnamese security forces entered Buon Cuor Knia village, Buon Don District, Daklak province and shot a Montagnard Christian named Y-Hoang Buon Krong four times with an AK 47 rifle. He was taken to Buonmathuot Hospital. His present condition and whereabouts are unknown ;
- On 10 October 2003 twelve police from Krong Ana district, Dak Lak province shot Montagnard Christian Y-Pho Eban three times at Cuoi village in front of his wife and children. He was also hospitalized at Buonmathuot Hospital ;
- On August 18, 2003 Major Nguyen Vinh Chinh, a police officer, with approximately 100 Vietnamese soldiers from Daklak province entered Buon Yang Reh village, Krong Bong district, Dak Lak province to arrest and harass Christians in this area. The soldiers forced their way into a house owned by a woman named H'Duen Buondap and confiscated Bibles, Hymns books and stole 150,000 VND.

Other human rights abuses include violations of women's rights, particularly the increasing trafficking of women for prostitution and the forced sterilization of indigenous women, especially the Montagnards. Grave abuses of childrens' rights, particularly forced labour, have been recently highlighted by the International Labour Organization.

³ AFP, 25 sept. 2003, Le Vietnam juge la peine de mort efficace contre le trafic de drogue.

Recommendations

The International Federation for Human Rights and the Vietnam Committee on Human Rights are deeply concerned by the ongoing and egregious violations of human rights in Vietnam. We call upon the European Union to raise these concerns in the upcoming meeting with the Vietnamese authorities. We urge the EU to call upon Vietnam to take the following urgent measures :

- Immediately and unconditionally release all persons detained for the peaceful expression of their opinions or for their religious beliefs and cease police harassment, surveillance, house searches and censorship (on telephones, Internet and postal communications) against them ;
- Implement the recommendations formulated by the UN Committee on Human Rights in July 2002 concerning necessary changes in the legislation and the practice in the Socialist Republic of Vietnam, notably regarding administrative detention under Decree CP-31 and art. 71 of the Code of Criminal procedure, the independence of the judiciary, the press laws, and repression against religious leaders and indigenous communities.
- Revise regulations that effectively censor the media and the Internet and that interfere with the freedom to seek, receive and impart information in accordance with international human rights standards;
- Ratify the UN Convention on Torture and other Cruel, Inhuman or Degrading Treatment as well as the Statute of the International Criminal Court ;
- Adopt a moratorium on the execution of the death penalty as a first step towards its abolition, as established in the EU Guidelines on the death penalty of June 1998;
- Accept the terms of reference of the UN Working Group on Arbitrary Detention for a follow-up visit and issue a standing invitation for all the UN mechanisms.

