The Death Penalty in the Socialist Republic of Vietnam

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The use of the death penalty is frequent in the Socialist Republic of Vietnam. Capital punishment is applied for 29 offences, including murder, armed robbery, drug trafficking, rape, sexual abuse of children, and a range of economic crimes, such as graft and corruption, fraud and embezzlement (500 million dong ($33,200) or more of state property), production and trade of food, foodstuffs and medicines. Seven political acts perceived as "threats against national security" also carry the death penalty as a maximum sentence.

Capital punishment is most frequently used to sanction drug-related offences, followed by corruption, black-market and violent crimes. In 2001, drug trafficking alone prompted 55 death sentences. Vietnam has some of the harshest drug laws in the world [1] A 1997 law made possession or smuggling of 100g or more of heroin, or 5 kilograms or more of opium, punishable by death. [2]

The use of the death penalty is escalating in Vietnam, despite revisions in the Criminal Code adopted by the National Assembly in 1999 which reduced the number of offences punishable by death from 44 to 29. Many high-ranking government officials, including President Nguyen Minh Triet, have expressed their opposition to the too-frequent use of the death penalty, but their stance has had no effect on the rising trend of executions. A reform of the death penalty adopted in May 2000 made only one change - death sentences are commuted to life imprisonment for pregnant women and mothers of children under 3 years.

FIDH and VCHR are deeply disturbed by the use of the death penalty to sanction vaguely-defined “national security” crimes in Chapter XI of the Vietnamese Criminal Code. These include treason, carrying out activities to overthrow the government, espionage, banditry, terrorism, undermining peace etc. The definition of "national security" crimes is extremely broad, and the United Nations has frequently expressed concern that critics in Vietnam may be sentenced to death under these provisions simply for the peaceful exercise of the right to free expression. The UN Working Group on Arbitrary Detention has particularly urged Vietnam to revise Article 79 on “activities aimed at overthrowing the people's administration", which makes no distinction between violent acts such as terrorism, and the peaceful exercise of freedom of expression. None of these political offences are included in the proposed reforms for abolition of death penalty sentences currently under discussion in Vietnam.

For example, the crime of "espionage" (Article 80 of the Vietnamese Criminal Code) sanctions non-political acts such as "gathering or supplying information and other materials (i.e. materials which are not State secrets) for use by foreign countries against the Socialist Republic of Vietnam". This means that dissidents and peaceful critics may be condemned to death simply for circulating opposition views overseas. Many “cyber-dissidents” and peaceful critics have been recently arrested in Vietnam and charged under Article 80 simply for sending information abroad.

Article 79 of the Criminal Code carries the death penalty for people who “establish or join organizations with intent to overthrow the people's administration... or cause serious consequences...” (our emphasis). Dissidents may thus be put to death for the mere "intent" to criticize the government or form opposition movements.

Statistics on the number of death sentences and executions are not published by the Communist regime. Indeed, to defuse criticism by the international community and human rights organizations abroad, in January 2004, Vietnam adopted a decree classifying death penalty statistics as "state secrets". In 2004, over 100 people were sentenced to death, and more than 70 people were executed. In 2006, the Vietnamese press reported that "around 100 people are executed by firing squad each year", mostly for drug-related crimes (Thanh Nien, Youth, 3 February 2006).

In 2007, according to AP, AFP and the Vietnamese press, 104 death sentences were pronounced, including 14 women. Trials in Vietnam are also routinely unfair, with defendants not having access to independent defense counsel. In Vietnam's one-Party state, the judiciary is not independent, and the influence of the Communist Party is
Vietnam is currently considering abolishing the death penalty for twelve crimes, including smuggling, fraud, counterfeiting and bribery, following draft amendments to the Vietnamese Criminal Code proposed by the Ministry of Justice. The proposal must be approved by the National Assembly to become law. However, in September 2008, law experts at a criminal-law drafting session of Ho Chi Minh City's Bar Association strongly opposed the proposal to remove capital punishment for crimes of corruption and bribery because of the climate of endemic official corruption in Vietnam (Thanh Nien, Youth, 6 September 2008). These proposals will be presented to the National Assembly "in the near future".

In February 2006, the Ministry of Public Security had submitted a similar proposal to the Central Judiciary Reform Steering Commission to cut the number of offences punishable by a maximum death penalty to 20 from the current 29 (source: Phap Luat, Law, 10.2.2006). The ministry also recommended that firing squads be replaced by lethal injection because it was a "more humane" method of execution, and also because of the adverse psychological effect on the executioners, especially when the condemned was a female. The Ministry also suggested replacing the firing squad by a remote-control firing machine. These proposals were never adopted.

On December 18, 2007 Viet Nam abstained on the Resolution on a Moratorium on the Use of the Death Penalty at the UN General Assembly.

Conditions on death row are particularly inhumane. 3-4 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.

Executions take place at 4.00 am. As prisoners are not informed in advance of their execution date, they stay awake in fear of being called, only sleeping at 6.00 am when they know their turn has not come. Execution is by firing squad. Prisoners' families are not informed of the execution until after it has taken place.

Over the past few years, the authorities have increasingly encouraged the practice of public executions, ostensibly to discourage crime. One foreign tourist witnessed the execution of Phan Huu Ha in the province of Lao Cai, and reported that a crowd of over 100 people had been brought in to watch the execution.

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, and shot by five policemen. The commander then fires a last "humane shot" into the convict's ear. According to reports in the official press, many policemen suffer trauma after working as "executioners".

Relatives are not informed beforehand, but are asked to collect the belongings of the executed two to three days after their death. Under current practice, bodies of executed criminals are held for three years before being released to families for funerals, although photos in the official press show graves dug alongside execution fields which suggest that the bodies of executed prisoners are not always returned to their families. In 2006, the Ministry of Public Security proposed allowing families access to bodies immediately as long as they dispose of them hygienically.

The Vietnam Committee on Human Rights and the International Federation for Human Rights oppose death penalty in all circumstances. Our organisations are convinced that capital punishment is not only a violation of the right to life...
as proclaimed in the Universal Declaration of Human Rights but also an inhuman and cruel treatment. Moreover, it is particularly dangerous in a one-Party State such as Vietnam, where the judiciary is totally subservient to the Communist Party and where citizens may be condemned to death on “national security” charges simply for the peaceful advocacy of democracy or human rights.

VCHR and FIDH urge the Socialist Republic of Vietnam to sign as soon as possible the Second Optional Protocol to the UN International Covenant on Civil and Political Rights (ICCPR) on the Abolition of the Death Penalty, and proceed to an immediate moratorium as a first step towards the abolition of the capital punishment in the country.

[1] Vietnam is one of the countries listed by the US Administration as a “major illicit drug-producing or drug-transit countries”

[2] In July 2001, the People’s Supreme Court issued guidelines envisaging a 20-year jail term for defendants guilty of trafficking from 100g to 300g of heroin, life in jail for trafficking 300g to 600g, and capital punishment for 600g and upwards.