



FIDH – International Federation for Human Rights

and its member organization for Vietnam

Vietnam Committee on Human Rights (VCHR)

EU-Vietnam human rights dialogue

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Joint briefing paper on key human rights issues of concern

FIDH and **Vietnam Committee on Human Rights (VCHR)** express grave concern about persistent violations of the rights of freedom of expression, assembly and religion or belief over the past year. The alarming escalation of arrests, unfair trials, harsh prison sentences and physical violence against human rights defenders, bloggers, and civil society observed in 2017 grew markedly worse in 2018. The number of peaceful activists arrested and the length of prison sentences (up to 20 years), increased significantly. At the same time, the government adopted new legislation to criminalize the legitimate exercise of human rights.

This trend is particularly disturbing in light of the future ratification of the EU-Vietnam Free Trade Agreement (EVFTA), the implementation of which could have serious negative impacts if Vietnam does not bring its legislation into line with international human rights standards.

1. 2018: Vietnam’s leadership steps up zero-tolerance policy on criticism and dissent

The worsening crackdown on human rights defenders, activists, and government critics is a direct result of deliberate policy decisions made at the highest levels of the Communist Party of Vietnam (CPV). The CPV’s power and controls over state affairs reached new and unprecedented heights in October 2018, when the National Assembly installed Nguyen Phu Trong, the CPV General-Secretary, as the country’s new President. In his New Year message to the nation in January 2019, Trong announced his priority was to “*resolutely struggle against the attempts of hostile forces to abuse democracy and human rights in order to oppose our country*”.¹

Abuses committed by the authorities in 2018 included: politically-motivated and arbitrary arrests and imprisonment of government critics; unfair trials; ill-treatment of detainees; intimidation and harassment of human rights defenders and activists; police brutality against journalists; systematic suppression of peaceful protests against land seizures and environmental degradation (such as the Formosa Steel plant disaster); and lengthy jail terms against demonstrators who protested controversial legislation on Special Economic Zones.

¹ Speech to the National Congress of Public Security, 3/1/2019, <https://vnanet.vn/vi/tin-tuc/xa-hoi-14/tong-bi-thu-chu-tich-nuoc-nguyen-phu-trong-phat-bieu-chi-dao-hoi-nghi-cong-an-toan-quoc-3658968.html>

2. Violations of the right to freedom of expression

Crackdown on freedom of expression, peaceful assembly reaches unprecedented levels

At least 150 political prisoners remain behind bars in prison across Vietnam. Since the previous EU-Vietnam human rights dialogue in December 2017, the ongoing crackdown on government critics, bloggers, activists, and human rights defenders has intensified. Between December 2017 and February 2019, at least 40 individuals, including eight women, were arbitrarily arrested for the exercise of their rights to freedom of expression or freedom of peaceful assembly. In addition, 60 individuals, including 14 women, were sentenced to prison terms - with eight receiving particularly harsh sentences, ranging from 13 to 20 years.² [See selected profiles in Annex]

Draconian laws fuel repression

Nearly all of those who were arbitrarily detained or imprisoned from December 2017 to February 2019 were arrested and charged under four of the most-frequently used repressive provisions of Vietnam's Criminal Code: 1) Article 109 ("carrying out activities aimed at overthrowing the people's administration"); 2) Article 117 ("making, storing or disseminating information, documents, materials and items against the Socialist Republic of Vietnam"); 3) Article 118 ("disrupting security"); and 4) Article 331 ("abusing democratic freedoms to harm the interests of the State").³

Several activists received harsh sentences for denouncing the environmental disasters such as the toxic spill caused by the Formosa steel plant. On the imprisonment of Hoang Duc Binh and Nguyen Nam Phong, who received jail terms of seven and two years respectively in February 2018, four UN Special Rapporteurs stated that *"imprisoning bloggers and activists for their legitimate work raising public awareness on environmental and public health concerns is unacceptable."*⁴

All the above-referenced provisions are inconsistent with international standards related to freedom of expression and peaceful assembly, including under the International Covenant on Civil and Political Rights (ICCPR), to which Vietnam is a state party.

Restrictions on internet freedom

The Cybersecurity Law, which was adopted in June 2018 and came into force in January 2019, dealt a severe blow to internet freedom. The law requires all service providers to set up offices in Vietnam, to store the personal data of its users on servers inside the country, and to remove content deemed "offensive" by the authorities within 24 hours. It strictly prohibits the use of social networks or the internet to "infringe upon state interests" or spread

² Nguyen Quoc Hoan, Nguyen Van Tuc, and Dao Quang Thuc (13 years); Phan Thi Dao and Hoang Duc Binh (14 years); Nguyen Van Dai and Luu Van Vinh (15 years); and Le Dinh Luong (20 years).

³ Articles 109, 117, 118, and 331 of the 2015 Criminal Code (which came into effect on 1 January 2018), correspond to Articles 79, 88, 89, and 258 of the previous Criminal Code.

⁴ OHCHR, Viet Nam: UN rights experts urge release of activists jailed for protesting toxic spill, 23 February 2018, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22696&LangID=E>

“false information.” Foreign companies operating in Vietnam will also be required to share the online personal data of their clients, including details of bank accounts, hotel bookings, travel itineraries, or purchases, if requested by the authorities.

An Implementation Decree to the Cybersecurity Law is still in the drafting process. If the latest draft, dated 11 October 2018, is adopted as such, the decree will impose serious restrictions on the right to freedom of expression and related human rights.

Another piece of legislation, Decree 174, effective since January 2014, introduced administrative fines of up to VND 100 million (US\$4,700) for anyone who “criticizes the government, the Party or national heroes” or “spreads propaganda and reactionary ideology against the state” on social media.

Attacks and restrictions on human rights defenders continue

In 2018, brutal physical attacks and other acts of harassment and intimidation against human rights defenders, activists, bloggers, and members of ethnic minorities, and members of religious groups continued across the country. For example, in March 2018 activist Dung Truong was brutally beaten by police inside a police station in Hanoi, where he had come to seek the whereabouts of a fellow activist. Journalist Pham Doan Trang was assaulted on several occasions, most recently in August 2018, along with singer Nguyen Tin and activist Nguyen Dang Cao Dai during a raid on a tea-house in Ho Chi Minh City. Former political prisoner and labor rights activist Do Thi Minh Hanh had rocks and a rudimentary firebomb thrown into her home in Lam Dong Province in June and July 2018. La Viet Dung, member of an informal football club of pro-democracy activists was viciously beaten by three men after a match in Hanoi in July 2018. Police in Khanh Hoa Province detained activist Ngo Thanh Tu and beat him repeatedly in August 2018. In September 2018, unknown thugs attacked and broke the arm of former political prisoner Truong Van Kim in Lam Dong Province. In most cases, physical attacks were carried out by plainclothes police officers and government-backed thugs.

In addition, Hanoi has also continued to release political prisoners on condition they go into exile. On 7 June 2018, human rights lawyer Nguyen Van Dai and his assistant Le Thu Ha were given early release and exiled to Germany. In November, Lê Thu Ha tried to return to Vietnam, but was intercepted at Hanoi airport and sent back to Germany. On 17 October 2018, prominent blogger Nguyen Ngoc Nhu Quynh aka Me Nam [Mother Mushroom], who was serving a 10-year prison sentence on trumped-up charges, was released and forced to leave the country for the US with her children. Forcing people to leave their families and homeland is contrary to Article 9 of the Universal Declaration of Human Rights, which states that no one should be subjected to exile. Vietnam should not condition the release of prisoners on exile. Instead political prisoners should receive an amnesty and be granted the right to freedom to choose their residence, in accordance with Article 12(1) of the ICCPR.

Vietnamese authorities also continued to harass and impose restrictions on activists and human rights defenders to prevent them participating in meetings inside and outside of Vietnam. In 2018, travel bans were imposed on various activists, including Bui Minh Quoc, Le Cong Dinh, and Do Thi Minh Hanh. Such curbs are in breach of Vietnam’s obligations

under Article 12 of the ICCPR, which grants the right for everyone to liberty of movement and the right to leave his/her own country.

Not only Vietnamese activists, but members of international human rights NGOs have suffered harassments and travel bans. In August 2018, FIDH Secretary-General Debbie Stothard and Amnesty International Senior Director of Global Operations Minar Pimple were both banned from attending the World Economic Forum on ASEAN in Hanoi. The two had been invited to speak at the conference by its organizers. The Vietnamese authorities refused to grant an entry visa to Mr. Pimple. Ms. Stothard was intercepted at Hanoi International Airport, detained overnight, and expelled from Vietnam the following day. Authorities told her she was banned entry for reasons related to “national security.”

These restrictions are inconsistent with Vietnam’s obligations under Article 19 of the ICCPR, which grants everyone the right to freedom of opinion and expression.

Recommendations to Vietnam:

- Immediately and unconditionally release all individuals who have been arrested, detained, or imprisoned under repressive provisions of the Criminal Code for the exercise of their rights to freedom of expression or freedom of peaceful assembly, including: UBCV Patriarch Thich Quang Do, human rights defender Tran Thi Nga, all members of the ‘Brotherhood for Democracy [See below, *Right to freedom of association and peaceful assembly heavily restricted*], and environmental rights defenders Phan Van Thu and Tran Thi Xuan.
- Drop all charges against individuals who are being prosecuted under repressive provisions of the Criminal Code for the exercise of their rights to freedom of expression or freedom of peaceful assembly.
- Cease all physical attacks and other acts of harassment and intimidation against human rights defenders, activists, bloggers, and members of ethnic minorities and religious groups.
- Allow independent organizations with a relevant mandate to conduct visits to places of detention, interview inmates, and assess conditions without hindrance.
- Urgently amend vague and overly broad provisions of Articles 109, 117, and 331 to bring them in line with international standards related to freedom of expression and peaceful assembly, including under the ICCPR.
- End all restrictions and acts of harassment against activists and human rights defenders.
- Enable the emergence of independent, privately-run media.
- Cease state censorship on information and surveillance, filtering, and other restrictions on the use of the Internet.

3. Right to freedom of association and peaceful assembly heavily restricted

Despite being guaranteed by the 2013 Constitution, the right to freedom of association is significantly restricted in Vietnam. All associative activity remains controlled by the CPV and the Vietnam Fatherland Front (VFF), an umbrella of mass organizations that has a constitutional mandate to oversee the implementation of CPV policies at the grassroots

level. In January 2018, CPV General-Secretary Nguyen Phu Trong commended the police for “preventing the establishment of political opposition groups.”⁵

During 2018, a number of activists were condemned to extremely heavy prison sentences for forming informal groups that had been targeted by the CPV. In April and September 2018, nine members of the ‘Brotherhood for Democracy,’ a loose association of former political prisoners and human rights defenders, were sentenced to prison terms ranging from one to 15 years on charges of “subversion.”⁶ In addition, in September 2018, nine members of a group named ‘Hien Phap’ [Constitution] were arrested and accused of “disturbing public order” for seeking to inform people of their constitutional rights. In December 2018, one of their members, Huynh Truong Ca, was sentenced to five and a half years in prison on charges brought under Article 117 of the Criminal Code (“anti-Socialist propaganda”). Another Hien Phap member, Le Minh The, has been charged under Article 331 of the Criminal Code (“abusing democratic freedoms to infringe on the interests of the state”).

The right to freedom of peaceful assembly, guaranteed by Article 25 of the Constitution, also remained severely restricted. Vietnam has no law on public assemblies. A draft law on demonstrations, that was introduced in the National Assembly several times, has been repeatedly delayed because of disagreement on the text. Demonstrations are regulated by Decree 38/2005, which prohibits gatherings outside state agencies and public buildings and bans all protests deemed to “interfere with the activities” of CPV leaders and state organs. Public Security Circular 09/2005/TT-BCA on the implementation of Decree 38 prohibits gatherings of more than five people without obtaining prior permission from the authorities.

These anti-demonstration regulations were widely invoked in 2018 to quell massive protests against a controversial draft law on Special Economic Zones and the draft Cybersecurity Law in June 2018. Hundreds of protesters were arrested in June in Ho Chi Minh City, Hanoi, Nha Trang, and Binh Thuan Province as well as in other areas. Many reported being beaten in custody by police. As of October 2018, the government convicted at least 118 protesters in connection with the June demonstrations on charges of disrupting public order.

Recommendation to Vietnam:

- Enact legislation that regulates the right to freedom of peaceful assembly in line with the provisions of the ICCPR.

4. Right to freedom of religion or belief repressed

New law places a straight-jacket on religions

In January 2018, Vietnam’s very first Law on Belief and Religion came into force. Under the law, which marks a hardening of Vietnam’s policies on freedom of religion or belief, registration of religious groups remains mandatory; although the process is accelerated (it will take five years instead of 23 years to obtain state recognition). The law makes no

⁵ Nguyen Phu Trong, *Opening speech at the 73rd National Conference of Public Security, Hanoi*, 15 January 2018; available at: http://mps.gov.vn/web/guest/ct_trangchu/-/vcmsviewcontent/GbkG/2004/2102/39530 [in Vietnamese]

⁶ The nine members are: Nguyen Van Dai, Pastor Nguyen Trung Tôn, journalist Truong Minh Duc, Nguyen Bac Truyen, Ms. Lê Thu Ha, Phạm Van Troi, Vu Hung, Nguyen Van Tuc, and Ms. Tran Thi Xuan).

provisions for religious groups that cannot, or choose not to, register with the state, such as the Unified Buddhist Church of Vietnam (UBCV), Khmer Krom Buddhists, and independent Hoa Hao and Cao Dai. This new law is in grave breach of Vietnam's obligations under Article 18 of the ICCPR, and exposes members of non-recognized religions to arrest and imprisonment.

Immediately after the law came into force, Vietnamese authorities cracked down on members of non-recognized religious groups and advocates of freedom of religion or belief. In January 2018, police banned Hoa Hao Buddhists in An Giang and Can Tho Provinces from celebrating the birth anniversary of the sect's founder, Huynh Phu So. In two separate trials in January and February 2018, 10 Hoa Hao Buddhists were sentenced to prison terms ranging from two to 12 years.

Throughout the year, every major religious community, including UBCV Buddhists, Catholics, Cao Dai, Hoa Hao Buddhists, Protestants, Muslims and Falun Gong practitioners, reported having been targeted by the authorities. Authorities carried out acts of harassment, intimidation, forced eviction, intrusive surveillance, disruption of religious services, confiscation of religious materials, arrest, imprisonment, torture, and deaths in custody. Members of ethnic and religious minorities in remote areas, who remain particularly vulnerable, suffered grave discrimination and harassment. The obligatory residence permit, or "ho khai" requires that one's religion and ethnicity be inscribed on the permit.

In September 2018, UBCV leader Thich Quang Do was expelled from the Thanh Minh Zen Monastery in Ho Chi Minh City. He is currently living at Tu Hieu Pagoda in Ho Chi Minh City, where his movements and communications remain restricted.

Recommendations to Vietnam:

- Revise the Law on Belief and Religion to bring it into line with Article 18 of the ICCPR.
- Guarantee the right of all religious communities, regardless of their registration status, to freely conduct religious activities and operate independently.
- Cease the harassment and discrimination against members of non-recognized religious bodies.
- Amend all legislative provisions that restrict the right to freedom of religion or belief that are inconsistent with the ICCPR.

5. Use of the death penalty escalates

Vietnam has retained the death penalty for offences that cannot be considered as "serious crimes" and therefore in breach of its obligations under Article 6 of the ICCPR. Eighteen offences in the Criminal Code are punishable by death⁷. They include economic and political crimes, in particular "national security" offences such as Article 109 ("activities aiming to overthrow the government") or Article 110 ("espionage"). In Vietnam, people may incur the death sentence simply for sending an e-mail abroad or expressing critical views of the CPV and the state.

⁷ The Death Penalty in Vietnam, VCHR, 6th World Congress against the Death Penalty, Oslo, June 2016 - <http://queme.org/app/uploads/2016/06/The-Death-Penalty-in-Vietnam-VCHR-2016.pdf>

Although Vietnam has reduced the number of crimes punishable by death over the past two decades from 29 to 18, the number of people sentenced to death has almost doubled over this period. Statistics on capital sentences and executions have been classified as “state secrets” since 2004. However, reports in the state-controlled press revealed that the imposition of death sentences escalated in 2018. In November 2018, Justice Minister Lê Thanh Long told the National Assembly that the number of death sentences had “*increased dramatically*” in 2018, with 122 more cases compared to the previous year. He reported that at least 85 executions had been carried out in 2018.

On 17 December 2018, Vietnamese abstained on the UN General Assembly resolution on the moratorium on the use of the death penalty.

During its third Universal Periodic Review, held on 22 January 2019 in Geneva, Vietnam received nine recommendations aimed towards the abolition of the death penalty. In response to the concerns by numerous UN member states over the ongoing use of the death penalty, the Vietnamese government delegation said that Vietnam would not publicize data concerning the death penalty, since they are considered state secrets. While the government delegation said that executions in Vietnam “*have always been transparent and public*”, it failed to explain why executions are public but statistics are state secrets.

Conditions on death row are particularly inhumane. In December 2018, the UN Committee against Torture expressed concern about “reports of the physical and psychological suffering of persons sentenced to the death penalty as a result of their particularly harsh conditions of detention that may amount to torture or ill-treatment, including solitary confinement in unventilated cells; inadequate food and drink; being shackled round-the-clock; being subjected to physical abuse; and who often commit suicide and develop psychological disorders as a result.”⁸

Recommendations to Vietnam:

- Establish a moratorium on the death penalty as a first step towards the abolition of capital punishment for all crimes.
- Review ‘national security’ provisions of the Criminal Code to ensure that no one may incur the death penalty simply for expressing dissenting views.
- Declassify all data concerning capital punishment and make public the number of death sentences and executions each year to allow for an informed public debate on the matter.
- Bring detention conditions on death row in line with the UN Standard Minimum Rules for the Treatment of Prisoners (also known as the ‘Mandela Rules’).

⁸ Committee Against Torture, Concluding Observations on the initial report of Viet Nam, 28 December 2018, UN Doc. CAT/C/VNM/CO/1, para. 32

APPENDIX: PROFILES OF DETAINED HUMAN RIGHTS DEFENDERS



Most Venerable Thích Quảng Độ, born 27 November 1928, Vietnam's longest-detained political prisoner, is currently under a form of house arrest at the Từ Hiếu Pagoda in Ho Chi Minh City. Leader of the non-recognized Unified Buddhist Church of Vietnam (UBCV), he has been detained under house arrest almost uninterruptedly since 2003, prior to which he spent 10 years in internal exile and over six years in prison – a total of more than three decades of detention simply for peaceful advocacy on religious freedom and human rights. The UN Working Group on Arbitrary Detention has declared Thich Quang Do's detention to be a violation of international human rights law.

In September 2018, he was expelled from the Thanh Minh Zen Monastery in Ho Chi Minh City, where he had been under house arrest since 2003. With no place to stay, he returned to his home village in Thái Bình, northern Vietnam, but was again placed under conditions of house arrest, and deprived of communications with the outside world. He managed to escape and return to Ho Chi Minh City. However, he is currently surrounded by plainclothed security agents and deprived of all communications. Thích Quảng Độ is a 16-time Nobel Peace Prize nominee, Rafto prize laureate, scholar, and leading figure in the movement for democracy in Vietnam.



Trần Thị Nga, born on 27 April 1977, an outspoken human rights defender and a labor and land rights activist, was sentenced to nine years in prison and five years house arrest at a one-day trial on 25 July 2017 by the People's Court in Hanoi. The sentence was upheld on appeal on 22 December 2017. She was charged with "propaganda against the Socialist Republic of Vietnam". Security officers barred her husband and children from the court, along with supporters and independent journalists. Trần Thị Nga was arrested on 21 January 2017 at her home in Phú Lý, northern Vietnam. She is the mother of four children. Trần Thị Nga has suffered repeated intimidation, harassment, detention, interrogation, and physical assaults because of her human rights activities. In May 2014, a group of five men assaulted her with iron rods. During the beating she suffered a broken arm, a broken leg, and other internal injuries. Trần Thị Nga's health condition has deteriorated in prison as a result the injuries she sustained during the beating. She is currently detained in Gia Trung Detention Center, Gia Lai Province, 1,300 km from her home, and has received very few visits from her family.



Dr. Hồ Văn Hải, 56, was condemned to four years in prison and two years' house arrest for "*propaganda against the state*" (former Article 88 of the Criminal Code, now Article 117) at a closed trial in Ho Chi Minh City on 1 February 2018. He had been arrested on 2 November 2016 and charged with writing articles calling for a boycott of the elections and protesting the grave pollution caused by the Taiwanese-owned steel plant Formosa. Formerly a doctor at Chợ Rẫy, the largest hospital in Ho Chi Minh City, he opened his own clinic in 2004. In 2009, he began writing articles on his blog about education, the environment and the country's political affairs. As a doctor, he was especially concerned about the long-term effects of the Formosa toxic waste spill which polluted over 200 km of shoreline along the coasts of central Vietnam and caused the deaths of millions of fish.



Phan Văn Thu, 71, leader of a peaceful ecological group named 'Council for Public Law and Affairs of Bia Son,' was condemned to life imprisonment in February 2013, along with 21 members of his group who received prison terms ranging from 10 to 17 years on charges of "*activities aimed at overthrowing the people's administration*" (formerly Article 79 of the Criminal Code). The group ran an eco-tourist company at the Da Bia Tourist Resort in Phu Yen Province. They signed a contract with the local authorities to engage in protecting the forest and environment. The group believed in the prophecies of Nguyen Binh Khiem, a 16th century oracle or Vietnamese (equivalent to Nostradamus) and dreamed of building a new "Utopia" in which science, nature, and humankind would be harmoniously balanced. They organized conferences and produced leaflets to disseminate their beliefs. According to reports in the state-run media, the group had several hundred members and sections in several central and southern provinces. According to the official

daily *Saigon Gai Phong* (Saigon Liberation], the group “chose the method of nonviolence” to “try to win the confidence of the masses against the leadership of the Party and State.”



ĐỘ THỊ HỒNG, born 1957, is a defender of environmental rights and member of the Buddhist sect Ân Đàn Đại Đạo. She was sentenced to 13 years in prison and five years’ house arrest in February 2013 on charges under Article 79 of the Criminal Code (“aiming to overthrow the people’s administration.”) The “incriminating evidence) against her included “excerpts from a sermon by the founder which referenced human rights, protection of the environment, and international law”. She is also member of the ‘Council for the Laws and Public Affairs of Bia Son.’ In 2013, 22 members of the group were sentenced to a total of 299 years in prison and 105 years’ house arrest at a closed trial. She is currently detained at An Phước Detention Centre, Bình Dương

Province and is in poor health.



TRƯƠNG MINH DỨC, born 1960, is a citizen journalist and the Deputy Head of the ‘Brotherhood for Democracy’ in the Southern region of the country. Former prisoner of conscience, he was convicted in 2007 and sentenced to five years in prison on charges under under Article 258 (now Article 331) of the Criminal Code (“abusing democratic freedoms and rights to infringe upon the interests of the state.”). After his release in 2012, he was harassed and repeatedly assaulted by unidentified people working for the government. He was arrested on 30 July 2017 and, on 5 April 2018, stood trial along with Nguyen Van Dai, Le Thu Ha - other members of the Brotherhood for

Democracy. He received a 12-year sentence, followed by five years of house arrest. On 4 June 2018, his sentence was upheld on appeal. The UN Working Group on Arbitrary Detention has declared that Trương Minh’s detention is “arbitrary” and in violation of international law.



TRẦN THỊ XUÂN, born 10 October 1976, is a human rights defender and member of the ‘Brotherhood for Democracy.’ She was actively engaged in charity work in her local Catholic community, and spoke out against the pollution disaster caused by the Formosa steel plant. She was arrested in Hà Tĩnh Province on 17 October 2017 and charged under Article 79 (now Article 109) of the Criminal Code (“activities aimed at overthrowing the people’s administration.”) She was held incommunicado for five months before her trial on 12 April 2018, and had no lawyer or means to prepare her defense. The trial was held without any prior notification to her family, and was closed to the

public. Trần Thị Xuân was sentenced to nine years in prison and five years’ house arrest. She is currently detained in No. 5 Prison, Thanh Hóa Province. She suffers from kidney disease, and is reportedly in poor health.