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VIETNAM COMMITTEE
ON HUMAN RIGHTS

QUÊ MÈ:
ACTION FOR DEMOCRACY IN VIETNAM

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THE DEATH PENALTY IN THE SOCIALIST REPUBLIC OF VIETNAM

Special edition for the 4th World
Congress against the death penalty

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



February 2010



The Death Penalty in the Socialist Republic of Vietnam

Special edition for the 4th World Congress Against the Death Penalty / Geneva, 24-26 February 2010

As 1,700 abolitionists from over 100 countries gather in Geneva for the 4th World Congress against the Death Penalty, the Vietnam Committee on Human Rights (CVHR) and the International Federation on Human Rights (FIDH) express their opposition to the use of this inhuman and degrading punishment and call upon Vietnam to implement an immediate moratorium as a first step to abolishing the death penalty. In Vietnam, statistics on capital punishment are classified “State secrets”. The State-controlled media has reported 11 death sentences since January 2010, and 58 death sentences in 2009, 14 of them for drug offences. However, the real figures are much higher. Peaceful dissent is punishable by death under vaguely-defined “national security laws”, such as Article 79 of the Criminal Code, which makes no distinction between acts of terrorism and peaceful exercise of the right to freedom of expression. In 2010, human rights lawyer Le Cong Dinh and 4 pro-democracy activists were sentenced to up to 16 years in prison under Article 79 for calling for political reforms.

The use of the death penalty is frequent in the Socialist Republic of Vietnam (SRV). Capital punishment is applied for 22 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 (for 500 million dong - \$33,200 - or more of state property), illegal production and trade of food, foodstuffs and medicines. Seven political acts perceived as “threats against national security” carry the death penalty as a maximum sentence.

Capital punishment is most often used to sanction drug-related offences, followed by corruption, black-market and violent crimes. Vietnam has some of the harshest drug laws in the world¹. A 1997 law made possession or smuggling of 100g or more of heroin, or 5 kilograms or more of opium, punishable by death². In 2001, 55 sentences were pronounced for drug trafficking alone.

Death sentences are frequently pronounced, 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, and further revisions in 2009, which reduced this number to 22. 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 were commuted to life imprisonment for pregnant women and mothers of children under 3 years old.

Death penalty in the national legislation of Vietnam

The FIDH and the Vietnam Committee on Human Rights are deeply disturbed by Vietnam's use of the death penalty to sanction vaguely-defined "national security" crimes in 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 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 the rights to 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. In December 2009-January 2010, pro-democracy activists including human rights lawyer Le Cong Dinh, Le Thang Long, Tran Huynh Duy Thuc, Nguyen Tien Trung and Tran Anh Kim were charged under Article 79 for peacefully advocating democracy. They received sentences from 5 to 16 years in prison.

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, in January 2004, Vietnam adopted a decree classifying death penalty statistics as "state secrets". In 2006, the Vietnamese press reported that "*around 100 people are executed by firing squad each year*", mostly for drug-related crimes³. In 2007, according to AP, AFP and the Vietnamese press, 104 death sentences were pronounced, including 14 women. The official magazine *Phap Luat* (Law) reported 11 death sentences since January 2010⁴ and the French magazine "*Express*" (12.02.2010) reported an average of 100 executions per year in Vietnam⁵. Trials in Vietnam are also routinely unfair, with defendants not having access to independent defense counsel. In Vietnam's one-Party political system, the judiciary is not independent, and the influence of the Communist Party is pervasive.

In June 2009, Vietnam recently abolished the death penalty for seven crimes, including rape, awarding of bribes, counterfeiting money and bonds, hijacking ships and planes, destruction of weapons and military equipment and appropriation of property through swindling. These amendments to the Criminal Code came into force in January 2010. Proposals to remove the death penalty for drug trafficking were rejected.

Method of execution

Executions are conducted by firing squad. In 2009, the National Assembly debated the introduction of lethal injection for executions. Deputy Chairwoman of the Judicial Committee, Le Thi Nga said that lethal injections were a "more humane" method of execution, and had less adverse psychological effects on the executioners, especially when the condemned was a female. The Ministry of Public Security has also suggested replacing the firing squad by a remote-control firing machine. A new draft law was introduced in November 2009, which proposes the use of two methods of execution, both by lethal injections and the firing squad. No decision has yet been made.

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

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. 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 and foreign press show graves dug alongside execution fields which suggest that the bodies of executed prisoners are not always returned to their families (*see photo*). In 2006, the Ministry of Public Security proposed allowing families access to bodies immediately as long as they dispose of them hygienically.

Recommendations

The Vietnam Committee on Human Rights and the International Federation for Human Rights oppose the death penalty in all circumstances. Our Organisation 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.

We urge Socialist Republic of Vietnam to sign the Second Optional Protocol to the UN International Covenant on Civil and Political Rights on the Abolition of the Death Penalty as soon as possible, and implement an immediate moratorium as a first step towards abolishing capital punishment in Vietnam

¹ Vietnam is one of the countries listed by the US 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.

³ Thanh Nien, *Youth*, 3 February 2006.

⁴ *Phap Luat (Law)*, 6 February 2010.

⁵ *L’Express (online)*, 12 February 2010.

The Vietnam Committee on Human Rights (VCHR) is the international section of **Quê Me: Action for Democracy in Vietnam**, a non-profit organization founded in Paris in October 1975, with sections in Europe, the USA, Canada and Asia. Its aims are to monitor human rights in Vietnam, mobilize support for victims of human rights abuses and promote efforts to advance democracy in Vietnam. It publishes Vietnamese-language reports and books that are circulated underground in Vietnam and amongst the Vietnamese diaspora. These documents are aimed to promote democratic ideas, human rights education and culture, and provide a podium for all those working for the development of individual liberties and human rights in Vietnam. Vo Van Ai is the VCHR President, Penelope Faulkner is Vice-President and Vo Tran Nhat is Executive Secretary. The VCHR's board of Advisers include:

Marc Blondel (*Force Ouvrière Labour Union, France*), Vladimir Boukovsky (*Russia*), Bill Bradley (*former Senator, USA*), Larry Diamond (*Hoover Institution, USA*), Paul Goma (*Rumania*), Charles D. Gray (*former Head, International Dept., AFL-CIO, USA*), Senator Orrin G. Hatch (*USA*), David Kilgour (*MP, former Deputy Speaker of the Canadian Parliament*), Stephen Nedzynski (*Poland*), Douglas Pike (*Vietnam Center, University of Texas, USA*), Leonid Plyush (*Ukraine*), Jean-Francois Revel (*France*). Other founder members are: Milovan Djilas (*Writer, former Yugoslavia*), Eugene Ionesco (*Playwright, Member of French Academy*), Lane Kirkland (*Former President, AFL-CIO, USA*). As an affiliate of the Paris-based **International Federation of Human Rights Leagues** (FIDH) founded in 1922, the VCHR testifies regularly at the United Nations Human Rights Council has consultative status at the UNO, UNESCO, ILO and the Council of Europe. The Vietnam Committee works with its partner organization, **the International Buddhist Information Bureau** (IBIB) to combat religious freedom abuses. IBIB is the Overseas Information Service of the Unified Buddhist Church of Vietnam (UBCV). It was created in Paris in 1993 at the request of the UBCV in Vietnam to circulate information at home and abroad on the UBCV movement for religious freedom and human rights. **Vo Van Ai** is Director of the International Buddhist Information Bureau and also the UBCV's international spokesman.

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FIDH represents **155** human rights organisations on **5** continents

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Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

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

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of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest,

ABOUT FIDH

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

- A broad mandate

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

- A universal movement

FIDH was established in 1922, and today unites 155 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

- An independent organisation

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

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Find information concerning FIDH 155 member organisations on www.fidh.org