

fidh

International Federation for Human Rights

VIETNAM COMMITTEE
ON HUMAN RIGHTS

QUÊ MÈ:
ACTION FOR DEMOCRACY IN VIETNAM

Ủy ban Bảo vệ Quyền làm Người Việt Nam



VIETNAM: FROM “VISION” TO FACTS

Human Rights in Vietnam under its Chairmanship of ASEAN

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



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Acronyms

AICHR	ASEAN Intergovernmental Commission on Human Rights
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CPV	Communist Party of Vietnam
EAS	East Asia Summit
EU	European Union
GDP	Gross Domestic Product
ICCPR	International Covenant on Civil and Political Rights
LURC	Land Use Rights Certificate
MOLISA	Ministry of Labour, Invalids and Social Affairs
NGOs	Non-governmental organizations
ONI	OpenNet Initiative
RoP	Rules of Procedure
ToR	Terms of Reference
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UBCV	Unified Buddhist Church of Vietnam
UPR	Universal Periodic Review
UWFO	United Worker-Farmers Organization
VGCL	Vietnam General Confederation of Labour
VFF	Vietnam Fatherland Front
VUSTA	Vietnam Union of Sciences and Technology Associations
WTO	World Trade Organisation

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Thich Quang Do speaks to peasants and farmers demonstrating outside the National Assembly's Southern Office in July 2007. They had travelled from the countryside and camped outside the National Assembly office in Ho Chi Minh City for over three weeks to protest land confiscation and official power abuse. The day after this photo was taken, armed forces and riot police violently disbanded the demonstration and forcibly escorted the 2,000 peasants back to their villages. Thich Quang Do was summoned for interrogations and subjected to a widespread vilification campaign in the state-controlled press.

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Executive summary

This year, the Socialist Republic of Vietnam has taken the rotating chairmanship of the Association of Southeast Asian Nations (ASEAN). As such, it has also become the first chair of Asia's new human rights mechanism, the ASEAN Intergovernmental Commission on Human Rights. The nature of ASEAN is that the Chair country plays a determining role. Vietnam has thus a double responsibility. Regionally, to play a leadership role in helping ASEAN's human rights body become an effective, credible and accountable institution with a real capacity to address abuses and advance human rights. Nationally, to provide an example by respecting and promoting human rights at home.

In fact, human rights violations in Vietnam have increased during its chairmanship of ASEAN, with a serious crackdown against freedom of expression, repression of religious communities, stifling of freedom of the press and Internet, widespread use of the death penalty, and abuses of women's rights. Police violence is steadily increasing. In 2010, Police frequently used force to disband peaceful demonstrations, and several people died under Police interrogation, such as a Catholic mourner in Con Dau and a young man beaten to death for not wearing a motor-bike helmet in Bac Giang.

Alongside the use of coercion and violence, the Vietnamese authorities use the law to suppress political dissent. Vaguely-defined "national security" provisions in the Vietnamese Penal Code – seven of which carry the death penalty – are used to detain peaceful critics, religious followers and human rights defenders, and directives legalize detention without trial. Legislation on religion is used to reinforce oversight of religious communities and maintain them under strict state control.

Detention conditions in Vietnam's prisons and labor camps are extremely harsh. Recent testimonies from political prisoners reveal widespread practices of forced labor, ill-treatment, shackling and prolonged detention in solitary confinement cells. Political prisoners are subjected to an especially harsh regime. These testimonies formally disprove Vietnam's repeated declarations to the international community that "*there are no political prisoners in Vietnam*".

As Vietnam steers ASEAN under its chosen leitmotif "From Vision to Action", this report explores the gulf between rhetoric and reality in the protection and promotion of human rights and fundamental freedoms in Vietnam. It does not pretend to fully document human rights violations, and the list of political prisoners cited herein is by no means exhaustive. It merely shows the tip of the iceberg, an overall view of the daily challenges faced by human rights defenders in Vietnam today.

The International Federation for Human Rights (FIDH) and the Vietnam Committee on Human Rights call upon Vietnam to make a number of concrete steps to improve human rights protection, and to the international community to urge Vietnam to accelerate these reforms.

I. Introduction

Since January 2010, the Socialist Republic of Vietnam has assumed the rotating Chair of the Association of Southeast Asian Nations (ASEAN), which it will hold until the end of the year. Under the theme of “*Towards the ASEAN Community - From Vision to Action*”, Vietnam is hosting some 500 meetings this year, including the 17th ASEAN Summit from 29 to 31 October in Hanoi.

1. Background

Vietnam joined ASEAN in 1995¹. When it took up its first chairmanship in 1998, ASEAN was best-known as an association of states committed to the principle of non-interference, “Asian values and ASEAN ways”, a forum in which civil society had no place. Today, a “new” ASEAN is in the process of emerging, with an expansion of its regional architecture that includes ASEAN Plus Three (ASEAN + Japan, China and South Korea) and ASEAN Plus 6 (ASEAN + China, Japan, South Korea, India, Australia and New Zealand). Current discussions also include inviting the United States and Russia to join the group, either by establishing an ASEAN Plus 8, or by expanding the East Asia Summit (EAS), formed in 2005, which includes the 10 ASEAN states plus the 6 countries cited above.

Although it remains firmly committed to non-interference, ASEAN has made strides forward in the realm of human rights. In 2008, the 10 member states ratified an “**ASEAN Charter**” which formalizes, for the very first time, the pledge of ASEAN states to “*the rule of law, good governance, the principles of democracy and constitutional government*”, the “*respect for fundamental freedoms, the promotion and protection of human rights and the promotion of social justice*” and “*upholding the UN Charter and international law.*”² It also pledges “to promote a people-oriented ASEAN”³ and “engage with entities which support the ASEAN Charter”⁴ – thus formally acknowledging the role of civil society in the community’s development.

At its 15th Summit in Thailand in 2009, ASEAN established the “**ASEAN Intergovernmental Commission on Human Rights**” (AICHR), the very first regional human rights mechanism in Asia. As this year’s chair of ASEAN, Vietnam also becomes chair of this regional human rights body. One of the AICHR’s goals is to draft an ASEAN Declaration on Human Rights. The establishment of the AICHR was widely hailed as a milestone, although the Terms of Reference (ToR) under which it was established have disappointed civil society activists. Largely due to opposition by the “CLMV” countries (Cambodia, Laos, Myanmar and Vietnam), the ToR do not provide for mechanisms to investigate human rights violations, apply sanctions or seek prosecution of human rights violators in member countries⁵, nor hold peer reviews of human rights progress similar to the United Nations’ Universal Periodic Review, as suggested by Indonesia. All ten members of the Commission’s representatives are government officials,

1. Founded in 1967, ASEAN has 10 member states: Brunei, Burma/Myanmar, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand, Cambodia and Vietnam. It spans over an area of 4.46 million km², with a population of approximately 580 million people. Its combined nominal GDP in 2009 was over US\$ 1.5 trillion. If ASEAN was a single economy, it would rank as the 9th largest economy in the world in terms of its nominal gross domestic product (GDP).

2. ASEAN Charter, Chpt. I, Art. 2.1 (i)(j).

3. ASEAN Charter, Chpt. I, Art. 1.11.

4. ASEAN Charter, Chpt. V, Art. 16.1.

5. Terraviva UN : Southeast Asia’s Human Rights Body dismissed as “toothless”, Bangkok, 28 June 2009.

not independent human rights experts, with the notable exception of Indonesia and Thailand's, which are represented by an NGO coordinator and university professor, respectively⁶.

Progress is still possible, however, as the AICHR formalises its Rules of Procedure (RoP). The RoP is the key document that will define how the AICHR carries out its mandates and functions, and it provides the opportunity to establish effective tools and mechanisms for human rights protection. In the Cha-Am Hua Hin Declaration on October 23, 2009, ASEAN Heads of State recognised "*the contribution of stakeholders in the promotion and protection of human rights in ASEAN, and encourage their continuing engagement and dialogue with the AICHR*". The RoP can give substance to this recognition by institutionalising the spaces and processes for civil society participation, especially with civil society and non-governmental organisations (NGOs), victims of human rights violations and their families and national human rights institutions.

The nature of ASEAN is that the Chair country plays a determining role. Vietnam's chairmanship in 2010 has particular significance, for it holds all ASEAN political and strategic positions. Alongside its chairmanship of AICHR, it also chairs the ASEAN Political-Security Community, the ASEAN Economic Community and the ASEAN Socio-Cultural Community Councils which coordinate the three pillars of ASEAN policy and cooperation⁷. If ASEAN is to move forward, Vietnam must seize the unique opportunity of its chairmanship and play a leadership role in promoting a new culture of openness, transparency and human rights in the community.

One crucial issue is the relationship with civil society. Thanks to the persistence of civil society movements all over Southeast Asia, ASEAN has come to recognise civil society's role in developing a sharing and caring community. Under Thailand's chairmanship, much progress was made, and Thailand and Indonesia have consistently lobbied their counterparts for a greater involvement of civil society in ASEAN decision-making. But an "iron curtain" mentality prevails within ASEAN, especially amongst the Cambodia-Laos-Myanmar-Vietnam group, who perceive civil society as a threat. At ASEAN's 15th Summit last year, the Chairman declared that engaging civil society is the responsibility of the ASEAN Secretariat and the ASEAN Chair. Vietnam's chairmanship could negatively impact this process.

Indeed, whilst Vietnamese Prime Minister Nguyen Tan Dung has publicly pledged to support the "practical efforts" of civil society, Vietnam has taken no steps to enhance its participation. On the contrary, during the AICHR's first meeting in Jakarta in March 2010, the Vietnamese Chair, Mr. Do Ngoc Son, refused to meet civil society representatives and victims of human rights violations, on the pretext that the AICHR had "*no mechanisms to engage with external parties*". 70 regional civil society organisations had asked to meet the AICHR to present specific cases of human rights abuses, including the massacre of journalists in the Philippines, and make proposals for the AICHR Rules of Procedure. Noting that ASEAN officials had met with civil society during Thailand's presidency, they said "*This is definitely a regression in terms of civil society participation*"⁸ so far.

6. AICHR country representatives' CVs available at the Official Website of ASEAN

7. Deputy Prime Minister and Foreign Minister Pham Gia Khiêm chairs the National Committee for ASEAN and the APSC Council; Minister of Industry and Trade Vu Huy Hoang chairs the AEC Council; Minister of Labour - Invalids and Social Affairs Nguyen Thi Kim Ngân chairs the ASCC Council.

8. Solidarity for Asian Peoples Advocacy Taskforce on ASEAN Human Rights, Press Release 29.3. 2010.

2. ASEAN Ways, Asian Values and Human Rights in Vietnam

Vietnam is a state party to seven key United Nations (UN) human rights instruments⁹, and its Constitution guarantees the rights to freedom of expression, association, religion and peaceful assembly¹⁰. Yet the government tolerates no criticisms of human rights abuses, especially from civil society. Like many other ASEAN states, Vietnam was a staunch supporter of the “Asian values” argument in the 1990s, and signed the 1993 “*Bangkok Declaration*” affirming the principles of “*non-interference in internal affairs of states and the non-use of human rights as an instrument of political pressure*”. At Vietnam’s Universal Periodic Review (UPR) in May 2009, the government rejected over 40 recommendations by UN member states to improve human rights protection in the country.

A new human rights magazine published by the government in June 2010 illustrates this mind-set. At its launch in Hanoi, Foreign Minister Pham Gia Khiem declared that the magazine’s purpose was to “*disseminate the Communist Party and state’s policies on human rights*” and help to fight “*erroneous and hostile allegations*” on Vietnam’s human rights performance. One of its contributors, the Deputy Minister of Public Security, Nguyen Van Huong, explained the government’s approach in an article entitled “*For a correct understanding of Vietnam’s human rights*”¹¹.

“Some [Vietnamese] people cannot recognise our achievements. They copy the thinking of foreign countries and call themselves “opposition”. They even connive with hostile, reactionary forces to overthrow the regime... We deeply respect religions and create favourable conditions for their development, but we will resolutely prevent any plots to make use of religion to engage in political activities and sabotage the people’s unity... We struggle to protect accepted human rights norms, but we cannot accept “Western-style” democracy or human rights”.

The human rights magazine takes a similar line to Vietnam’s first “White Paper” on human rights published in 2005. After listing the government’s achievements in human rights promotion, it devotes a whole chapter to “False allegations on human rights”, denouncing with very strong rhetoric the “*hostile forces*” “*hiding under the mask of “democracy and human rights” who “make fabrications against Vietnam on issues related to human rights, democracy, religions and ethnicity*”¹².

Increasingly, however, Vietnamese scholars and academics are publicly challenging the official view. At a recent conference in Hanoi, Professor Dao Tri Uc, former Deputy Chairman and Secretary-general of the Vietnam Union of Lawyers, and human rights specialist Nghiem Kim Hoa called on the authorities to review their perception of human rights:

9. The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

10. Constitution of the Socialist Republic of Vietnam, Chpt. V, Arts. 69-70.

11. For a correct understanding of Human Rights in Vietnam, Deputy Minister of Public Security Nguyen Van Huong, Tap Chi Nhan Quyen Viet Nam, (Vietnam Human Rights Magazine) No 1. June 2010.

12. “The book: Achievements in Protecting and Promoting Human Rights in Vietnam” Hanoi, August 2005, Press and Information Department - Vietnam Ministry of Foreign Affairs. Chapter IV on “False allegations on human rights” specifically accuses the Vietnam Committee on Human Rights and its chairman, Vo Van Ai, of “taking advantage” of his position in the FIDH to “tarnish the image” of Vietnam in the United Nations

“Human rights and human rights institutions should not be perceived just as a means of countering attacks [on Vietnam’s human rights performance]. Human rights should be the philosophical foundation of Vietnam’s development, the most important factor in our development doctrines”. (Professor Dao Tri Uc).

“Today, we treat human rights as an aspect of foreign policy. But if we realise that human rights truly contribute to peace and national development, we will understand that human rights are essentially an internal affair... If we remain suspicious and defensive about human rights, we will never develop a human rights culture in Vietnam”. (Ms Nghiem Kim Hoa)¹³.

As Chair of ASEAN and the AICHR this year, Vietnam has a double responsibility. Regionally, it should play a leadership role in assisting ASEAN’s human rights body to become an effective, credible and accountable institution with a real capacity to address abuses and advance human rights. Nationally, it should provide an example by respecting and promoting human rights at home.

In fact, human rights violations in Vietnam have increased during its chairmanship of ASEAN, with a serious crackdown on freedom of expression, repression of religious communities, stifling of press freedom and the Internet, widespread use of the death penalty, and abuses of women’s rights. As Vietnam steers ASEAN “From Vision to Action”, this report explores the gulf between rhetoric and reality in the protection and promotion of human rights and fundamental freedoms in Vietnam. It does not pretend to fully document human rights violations, and the list of political prisoners cited herein is by no means exhaustive. It merely shows the tip of the iceberg, providing an overall view of the daily challenges faced by human rights defenders in Vietnam today.

13. State apparatus: human rights, not power sharing, report on a Conference on the need for a national human rights mechanism in Vietnam, VietnamNet 21.12.2009 (<http://vietnamnet.vn/chinhtri/200912>).

II. Legislation in the service of censorship

Under the ASEAN Charter, member states pledge “to promote a people-oriented ASEAN”. Yet the people’s voices are stifled in Vietnam. In the one-Party state, there are no independent civil society movements, no free trade unions, no free press. Free speech is curtailed on the Internet, on Blogs, on social networks such as *Facebook* and elsewhere. Citizens who seek to genuinely engage the authorities in constructive dialogue on human rights or democracy are branded as “reactionaries”, “hostile forces” and harassed or detained. Vietnam uses a range of methods, from outright repression to the application of restrictive laws, to silence its critics and maintain the people under tight control.

1. Restrictions on freedom of association

There are no independent non-governmental organisations (NGOs) in Vietnam. Although freedom of association is guaranteed by the 1992 Vietnamese Constitution¹⁴, all associative activity is strictly controlled by the Communist Party of Vietnam (CPV) and guided by the Vietnam Fatherland Front (VFF), an umbrella of “mass organisations” which “*constitutes the political base of people’s power*”. The Vietnam Fatherland Front has a constitutional mandate to “*strengthen the people’s unity of mind in political and spiritual matters*”¹⁵. Actually, its role is to reinforce the CPV’s control over the population and implement the Party’s policies in political and religious affairs. There is no Law on Associations in Vietnam, only a series of directives and decrees¹⁶.

In the late 1980s, Vietnam’s opening to a free market economy and particularly its loss of Soviet aid created a pressing need for financial support from development actors outside the Party framework. The government adopted new laws and regulations authorising non-profit organisations (NPOs), international NGOs (INGOs) and associations to raise funds and operate in Vietnam. This has led to a mushrooming of associations: voluntary, non-profit, community-based, cooperative etc. However, while the government recognises the contribution of associations to the economic development of the country, it fears the emergence of independent entities within the one-Party state, and severely restricts their field of activity. Associations may be active in poverty reduction, health care, information technology, science and sport, but are forbidden to engage in advocacy or speak out on policy issues. In brief, whilst the government has a minimal tolerance of autonomous civil activity, it resolutely stifles the emergence of independent civil society.

- The **1996 Civil Code** recognises two forms of NPOs, “*social and socio-professional organisations*” i.e. associations, and “*social and charity funds*” i.e. foundations. Both must

14. Constitution of the Socialist Republic of Vietnam, Chpt. V, Art. 69.

15. Constitution of the Socialist Republic of Vietnam, Chpt. I, Art. 9.

16. The only comprehensive legal document is the 1957 Law on Associations issued by Ho Chi Minh. Since 1992, a draft Law on Associations has been underway in Vietnam. In 2006, a 13th draft was submitted to the National Assembly, but after intense debate, the disagreements over prohibited and permitted activities and foreign membership were not resolved, and the Law has been put off for further discussion and drafting.

obtain official permission, and the application process is arduous. The government exercises strict control over the establishment, operations and dissolution of NPOs.

- **Article 105** of the Civil Code and Government **Decree 177** (1999) on foundations stipulate that they are solely permitted to operate in the domains of “*cultural, sport, scientific and social development*”. They must apply for approval to the President of the Provincial People’s Committee (local communist authorities). Foundations may only be set up by government or mass organisations (e.g. the “Compassion Fund” of the Vietnam Women’s Union, or “Fund for Supporting Farmers” of the Vietnam Peasants’ Association), or State-managed associations (the Poverty Alleviation Fund, Fund for Technical Creativity, etc.).

- **Decree 88** (2003) on the “Regulations on the Organisation, Operations and Management of Associations” restricts the activities of associations exclusively to “*contributing to the country’s socio-economic development*”. It contains a whole chapter on “State management of associations” which details the government’s strict control over associations at all levels, from the provinces down to the villages. Associations registered under Decree 88 are directly linked to governmental programmes, and effectively serve as agencies of government ministries. The government has the right to intervene in all stages of the association’s operations, including membership. It may veto members or introduce members of its own choice. Decree 88 makes no provisions for human rights activities or advocacy, neither by local nor international NGOs. It does not allow foreigners to be official members of an association.

Decree 88 defines six “*socio-political*” or “*mass organisations*”; the Vietnam Fatherland Front, Vietnam Confederation of Labour, Ho Chi Minh Communist Youth, Vietnam Peasants’ Association, Vietnam War Veterans Association and Vietnam Women’s Union. These are para-governmental bodies, funded largely by the state. Defined as organisations with “*political goals*”, the role of mass organisations is to oversee the implementation of Party policies at the grass-roots level. The Vietnam Confederation of Labour, for example, has a constitutional mandate to “*educate workers, employees and other labouring people to work well for national construction and defence*” (Article 10).

Most development NGOs are registered as “**Not-for-profit scientific organisations**” under the Law on Science and Technology and government Decree 35/HDBT of 1992 which authorises Vietnamese citizens to set up not-for-profit scientific organisations. They are incorporated through the **Vietnam Union of Sciences and Technology Associations (VUSTA)**. VUSTA is a member of the Vietnam Fatherland Front. Upon obtaining approval from VUSTA, the organisation must register with the Ministry of Science, Technology and Environment, and provide annual reports to VUSTA. This is the only current option available in Vietnam to civil society, and it requires them to justify and link their existence and operations to science and technology ¹⁷.

Decree 97: Associations are swiftly sanctioned if they question Party policies. In 2007, a group of leading intellectuals set up the Vietnam Institute of Development Studies, Vietnam’s first independent think tank, registered with the Hanoi City Department of Science and Technology. Almost all its directors were Party members. However, when the Institute began criticising state policies in its weekly seminars on economic and social development, Party officials pressed

17. See also “Defending Civil Society, A Report of the World Movement for Democracy, February 2008

them to close down. When they refused, on 24 July 2009, Prime Minister Nguyen Tan Dung issued Decree 97 limiting private research organisations to a list of 317 topics and banning them from publishing results bearing on government policies¹⁸. The Institute's President, Nguyen Quang A, decided to close the Institute rather than submit to the Party's dictates. *"It is impossible to limit the right to do research on life into a list, no matter how long the list is"*, the Institute stated on its website. "Such provisions will bind the hands of scientists who study independently". Since many civil society groups are affiliated to VUSTA and thus covered by this new regulation, Decree 97 is a serious impediment to research and free speech in Vietnam.



Dr. Nguyen Quang A,
President of the Institute
of Development Studies

The Vietnamese authorities routinely arrest citizens for setting up unregistered groups. In a crackdown in 2007, lawyer Nguyen Van Dai was struck off the Hanoi Bar and sentenced to five years in prison (later commuted to four) and three years house arrest for setting up an unofficial "Committee on Human Rights in Vietnam". During this crack-down, which came immediately after Vietnam's successful admission to the World Trade Organisation, between 30 March to 15 May, 15 human rights defenders and pro-democracy activists were sentenced to a total of 66 years in prison and 30 years of house arrest¹⁹ simply for forming unofficial political parties and worker associations, or for circulating democracy appeals. Even applying for approval can incur sanctions. During a government drive to stamp out corruption in 2001, Communist Party veteran Pham Que Duong was arrested along with 15 other dissidents and imprisoned for 19 months for applying to set up a "National association to fight corruption"²⁰.

Independent religious bodies are perceived as "illegal organisations". Members of the Unified Buddhist Church of Vietnam (UBCV), Vietnam's largest and oldest Buddhist organisation, have suffered continuous harassments, threats and arbitrary detention since the UBCV was supplanted by the State-sponsored body under Communist Party control in November 1981. The Hoa Hao, Protestants, Cao Dai and other religious groups suffer a similar fate.

2. Stifling freedom of expression – restrictions on the Internet

Vietnam is one of the worst violators of Internet freedom. Sweden's Ambassador at the UN Human Rights Council in March 2010 classified Vietnam as one of the world's three worst Internet censors alongside China and Iran. Vietnam is also classed by Reporters Without Borders in 2010 as the world's second largest prison for "netizens"²¹ – with a total of 17 in jail for peaceful online activities.

Since Vietnam opened its economy, use of the Internet has sky-rocketed. An estimated 25 million of Vietnam's 89-million population regularly use the Web. Blogging is widely popular. The Blog has opened up new horizons for communication, social exchange and on-line

18. New Vietnam law shuts down independent think tank, DPA, September 15, 2009.

19. Pro-democracy activists convicted in the 2007 crack-down were: Roman Catholic Priest **Father Nguyen Van Ly, Nguyen Phong, Nguyen Binh Thanh, Hoang Thi Anh Dao** and **Le Thi Le Hang** sentenced to up to 8 years in prison on 30 March 2007; Hoa Hao Buddhists **Nguyen Van Tho, Duong Thi Tron, Le Van Soc, Nguyen Van Thuy** to up to 6 years prison (3 May); **Le Nguyen Sang, Nguyen Bac Truyen, Huynh Nguyen Dao** to 5, 4, and three years respectively (10 May); lawyers **Nguyen Van Dai** and **Le Thi Cong Nhan** to 5 and 4 years respectively (11 May); **Tran Quoc Hien** to 5 years (15 May). All must serve long periods of house arrest after their release. See also Annual Report 2007 of the Observatory for the Protection of Human Rights Defenders (FIDH / OMCT).

20. Defending Civil Society in Vietnam, Vietnam Committee on Human Rights, July 2007.

21. Reporters Sans Frontieres, County Report on Vietnam, Paris 2009.

journalism. Bloggers in Vietnam today are not necessarily dissidents, but a whole generation of citizens who are bypassing the official media to seek information or engage in a debate that is impossible in the state-controlled press.

Vietnam is following the Chinese model – allowing wide access whilst filtering and controlling content, and harshly punishing offenders. The government has adopted extensive legislation to curb and control the free flow of information on the web. Decision 71 (2004) strictly prohibits “*taking advantage of the web to disrupt social order and safety*” or breach Vietnam’s “*fine customs and traditions*”. Government Decree 97 (2008) provides for punishments against those who disseminate information deemed “*hostile*” to the government. All Internet-users in Vietnam are responsible for the content of the material they receive. Cyber-café owners are responsible for their customers’ on-line activities, and must keep records of users’ ID and the sites they have visited. The Ministry of Public Security has set up a unit of “cyber-police” to track down the posting of banned material, and firewalls to block access to overseas sites advocating democracy, religious freedom and human rights. Access to social networks such as *Facebook* has been intermittently restricted.

In April 2010, the People’s Committee in Hanoi issued Decision 15 (15/2010/QĐ-UBND) ordering over 4,000 Internet cafés, retail outlets and service providers in Hanoi to install government-provided “Internet Service Retailers Software” by the end of 2011. Although the exact application of this software is unclear, analysts fear it may enable the authorities to block access to websites and track the activities of Internet users, similar to China’s “Green Dam” censorware. A Google policy analyst expressed concern that the regulation was a “*troubling example of a government threatening free expression online and an open Internet*”²².

In 2010, cyber-attacks against websites operated by Vietnamese bloggers or activists inside and outside Vietnam grew disturbingly. In March 2010, Google and the computer security firm McAfee discovered that malicious software was being used to infect “*potentially tens of thousands of [Vietnamese-language] computers*” with keyboard software belonging to the Vietnamese Professionals’ Society. The infected machines were used to spy on their owners and to attack blogs containing messages of political dissent. According to Google’s findings, this cyber-attack was aimed specifically at silencing critics of the controversial, Chinese-backed bauxite mining project in Vietnam. McAfee esteemed that this was a “*politically motivated cyber-attack*”, adding that “*the perpetrators may have some allegiance to the government of the Socialist Republic of Vietnam*”²³.

Cyber-attacks have been directed against many websites calling for democratic reforms and human rights. Dien Dan X-Café, a popular independent internet forum based in Ho Chi Minh City, relocated to Europe after its moderators suffered police harassment. A similar fate befell “Bauxite Vietnam”, a Website set up by prominent academic Nguyen Hue Chi, Nguyen The Hung, Pham Toan and a group of Hanoi intellectuals to protest the government’s controversial bauxite mining project in the Central Highlands. Its founders were interrogated and harassed after they collected some 3,000 signatures on Petitions to the National Assembly, and the website was hacked. It is now relocated to Europe. The Website of our own organisation, the Vietnam Committee on Human Rights (www.queme.net) was victim of a cyber-attack in

22. Google troubled by new Internet rules in Vietnam, AFP, 10.6.2010.

23. Google Links Web Attacks to Vietnam Mine Dispute, Bettina Wassener, New York Times, 31.3.2010.

March 2009, just two days after the Committee's President Vo Van Ai spoke at the United Nations Human Rights Council on human rights abuses in Vietnam. The attack was traced to an IP address in Hanoi.

Hundreds of blogs and websites have been shut down over the past year. Some belong to respected academia, military veterans or Communist Party members, such as that of the well-known Hanoi composer To Hai who posted his book "Memoires of a Coward" giving a first-hand account of atrocities committed by the Communist Party during the French and American Wars. In fact, the authorities do not hide the fact that they are shutting down these sites. At a press conference in May 2010, Lt. General Vu Hai Trieu, Deputy Director of the Ministry of Public Security's General Department of Security announced that his department had "destroyed 300 bad internet web pages and individual blogs".

Vietnam states that it is not censoring these Websites, but simply shutting them down "to protect young people from accessing unhealthy sites". However, according to research by the OpenNet Initiative (ONI), human rights is the most "unhealthy" subject: "while [Vietnam] doesn't block any of the pornographic sites ONI tested, it filters a significant fraction – in some cases the great majority of – sites with politically or religiously sensitive material"²⁴. Such tight censorship and controls have created a pervasive climate of fear. Whereas OpenNet Initiative found local assistants for their research in China and Iran, they could find no one willing to take the risk of helping them in Vietnam.

Vietnam has cracked down heavily on bloggers, cyber-dissidents and on-line journalists. In January 2010, extremely heavy sentences were handed down to a group of dissidents and pro-democracy activists who appealed for multipartyism on the Internet. The case was given a high profile in the official Vietnamese media, and the men's "confessions" were broadcast on prime-time television. Human rights lawyer Le Cong Dinh, Nguyen Tien Trung, Le Thang Long and Tran Huynh Duy Thuc received sentences ranging from five to sixteen years in prison. Tran Huynh Duy Thuc received the heaviest sentence (16 years) because he refused to recant his crimes. They were accused of "activities aimed at subverting the people's administration"²⁵ which carries the death penalty. Another member of the group, Tran Kim Anh, was sentenced to five-and-a-half-years in prison in December 2009.



Democracy activists (from left to right) Tran Huynh Duy Thuc, Nguyen Tien Trung, Le Thang Long and Le Cong Dinh on trial at the Ho Chi Minh City People's Court on 20.1.2010.

In a crackdown beginning in August 2009 and continuing in 2010, a series of on-line journalists and bloggers including Nguyen Ngoc Nhu Quynh (blog name *Me Nam*/Mother Mushroom), Bui Thanh Hieu (Nguoi Buon Gio/Wind Trader), Pham Doan Trang (Trang the Ridiculous), Huy Duc (blog Osin) were interrogated, fired from their jobs or forced to close down their blogs. Writer Tran Khai Thanh Thuy was sentenced to three-and-a-half years in prison in February 2010. They had all criticised Vietnam's policies on China and a controversial project on Bauxite mining which has been tendered to Chinese firms.

Peaceful activities in Hanoi and Haiphong were condemned to prison sentences in September

24. Internet Filtering in Vietnam in 2005-2006, OpenNet Initiative, August 2006. www.opennet.net/vietnam and Vietnam: Rising Dragon, Bill Hayton, Yale University Press, 2010.

25. Vietnam Penal Code, Art. 79. See press release of the Observatory for the Protection of Human Rights Defenders (FIDH / OMCT), 21.01.2010.



Students demonstrating against China.

2009 for activities including protests against China’s encroachment on the Spratley and Paracel archipelagos. Their “crimes” included hanging banners on bridges, writing poetry and planning peaceful demonstrations. Nine were convicted, including blogger Nguyen Hoang Hai (blog name Dieu Cay), writer Nguyen Xuan Nghia, activists Pham Van Troi, Pham Thanh Nghien, Ngo Quynh, Nguyen Van Tuc, teacher Vu Hung, as well as journalist Truong Minh Duc. The UN Working Group on Arbitrary Detention pronounced the members

of the group to be victims of arbitrary detention, since their activities “*merely represent[ed] the peaceful exercise of the right to freedom of assembly and opinion and expression*”. Concerning blogger Dieu Cay, given the “*peacefulness and legitimacy*” of his journalistic and political activities “which was not contested by the Vietnamese Government”, the Working Group said his detention was “*an attempt to stifle the exercise of his rights to freedom of opinion and expression and of peaceful assembly*”. The case of journalist Truong Minh Duc, sentenced to five years in prison for writing about official corruption, was considered to be a “*particularly serious case of arbitrary detention*”. Noting his “*poor status of health due to harsh detention conditions*”, the UN Working Group called for his immediate release²⁶.

3. The Right to Press Freedom

There is no press freedom in Vietnam. There are a multitude of publications – the Deputy Minister for Foreign Affairs Pham Binh Minh told the UN Human Rights Council in 2009 that there are 850 newspapers and magazines, 68 radio and TV stations, thousands of news websites and 80 e-newspapers²⁷. However, they are all run by Party-controlled, military or government agencies. There is no privately-run, independent media. The Communist Party of Vietnam (CPV) Mobilization and Propaganda Department controls the media and sets press guidelines. Government officials have repeatedly declared that Vietnam will never allow any privately owned newspapers or “Western-style” press freedom. CPV veteran and dissident General Tran Do and Buddhist monk Thich Quang Do filed applications to set up independent newspapers in 1999, but their requests were refused.

In June 2010, President of the National Assembly Nguyen Phu Trong defined journalism as “*a tool of information and dissemination, a weapon for the revolutionary struggle*”. Deputy Culture Minister Do Quy Toan said the domestic media’s role was to provide a force to combat “*the false ideas and plans of enemy forces and other political opportunists, and to protect the ideas, agenda and fundamental leadership of the party*”²⁸.

Guarantees of press freedom enshrined in the Constitution (Article 69) are nullified by the Press and Publication Laws, which “strictly prohibit” publications with contents that: “*oppose the State of the Socialist Republic of Vietnam or destroy the people’s solidarity block; ..disseminate reactionary ideas and culture...; destroy fine customs and habits; divulge secrets of the Party, State, and security...; distort history, deny revolutionary achievements, hurt our great men and national heroes, slander or hurt the prestige of organisations, honour and dignity of citizens*”. A 1999 law requires journalists to pay damages to persons harmed by their articles, even if

26. UN Working Group on Arbitrary Detention, Geneva, Opinion 1/2009.

27. National Report of the Socialist Republic of Vietnam under the Universal Periodic Review of the UN Human Rights Council, Hanoi 2009.

28. Media urged to improve quality, VNS, Hanoi, 21.6.2010.

the reports are true. Decree 56 adopted in July 2006 provides for crushing fines and suspension of licenses for media and journalists who defame and attack the “*prestige of the state*”.

Despite restrictions on the press, Vietnamese journalists are bravely seeking to push back the limits of state censorship and pursue investigative journalism. However, they face serious risks while receiving little or no protection from the authorities. At a conference in August 2010 organised by the Vietnam Union of Journalists, Hanoi security official Nguyen Van Lan, Deputy chief of staff of the General Police Department’s section on Criminality said that “*cases of reporters beaten and harassed whilst exercising their profession is increasing every day*”.

According to statistics published in the state-run press²⁹, the number of journalists harassed by Police and security officials has grown from approximately 400 per year before 2007 to 749 cases in 2009, and 359 in January 2010 alone. The penalties for police and security officials who beat journalists is extremely lenient. Under Article 257 of the Vietnamese Criminal Code, officials “*who use force to obstruct persons in the performance of their duties*” risk periods of non-custodial reform, or a maximum of two to seven years in prison if they cause “*serious consequences*”. In practice, however, these sanctions are rarely applied.

Veteran journalist Tran Quang Thanh, a former reporter for Vietnam Television and the Voice of Vietnam radio suffered severe face burns and lost one eye when acid was thrown at him because he wrote about corrupt officials in Hanoi during a government-sponsored anti-corruption drive in 1989. He filed a complaint in 1991, but the authorities have remained silent for the past 19 years. In this climate of fear and impunity, journalists often resort to self-censorship rather than risk their health and safety in reporting issues that touch Party or government officials.

Vietnamese journalists reporting on corruption and other “social evils”, even if they are following government directives, risk grave reprisals. When journalists uncovered a massive corruption scandal (PMU-18) involving top government officials in 2006, Prime Minister Phan Van Khai immediately called for “*severe sanctions*” against press agencies and people involved in “*writing and publishing untrue information*”³⁰. In the crackdown that followed in 2008, “*six newspapers received warnings, 252 journalists were sanctioned, 15 journalists had their press cards withdrawn (including two editors and four deputy editors), six journalists were prosecuted and two were imprisoned*”³¹. The two journalists imprisoned were Nguyen Van Hai and Nguyen Viet Chien of *Tuoi Tre* (Youth) and *Thanh Nien* (Young People), who were eventually released after international protests.

Foreign journalists in Vietnam are subjected to strict controls. They must submit written requests to the Foreign Ministry’s Press Department five days in advance for permission to carry out any journalistic activities. A 1997 Directive prohibits Vietnamese journalists from passing any information, photographs or other documents to foreign journalists without an authorisation from the Ministry of Culture and Information. This directive jeopardizes any Vietnamese journalists who enter into even informal contacts with foreign correspondents.



A number of journalists beaten whilst reporting (from left to right, top to bottom) Trang Dung (World Security newspaper), Minh Quoc (Vietnam Photo), Vo Minh Chau (Vanguard), and Tran The Dung (Worker). Photo Saigon GP.



Journalist Tran Quang Thanh. Photo RFA.

29. In congluan.vn and Ha Noi Moi, cf Radio Free Asia, 11.8.2010: “What protection for Vietnamese Journalists”.

30. Cong An Thu Do, Capital Security newspaper, Hanoi, 11 May 2006).

31. Nguyen Quang Duy, The situation of Vietnamese Journalists in 2009, <http://www.talawas.org/?p=15478>.

According to the former correspondent of the BBC in Hanoi, Bill Hayton, foreign journalists rarely respect Vietnam's press regulations to the letter, since they render their work impossible, and in most cases, they have no problems. However, the Press Law, he wrote, "*like many laws in Vietnam, hovers over the head of those it affects, ignored and unused, until the authorities need to use it*". After Mr. Hayton sought to meet dissidents in Hanoi, the authorities abruptly refused to renew his visa, giving him two weeks to leave the country³².

Overseas newspapers are on sale in Vietnam, but they are also subject to censorship in the most blatant and unsophisticated ways. On orders from the Ministry of Information and Communications, silver paint is sprayed across articles in the *Financial Times*, *International Herald Tribune* and other publications if they are deemed "negative". A supplement on Vietnam published by *The Economist* in April 2008 lacked the final page when it appeared in Vietnam's kiosks. The page carried an article on the future prospects of the Communist Party. It was expunged on the Ministry's orders³³.

Satellite dishes were banned by the government in 1997, except for certain government offices, large hotels and news agencies. Viewers wanting to watch international channels such as BBC World or CNN International have to subscribe to cable TV. However, Vietnam transmits these international news channels with a 30-minute delay so that it can preview them and stop the broadcast in case of politically "offensive" news. This reportedly happened during transmissions of Vietnam's Universal Periodic Review at the United Nations in May 2009, where speeches by Canada and other countries criticising Vietnam's human rights record were cut out. This 30-minute delay was removed during the 2006 Asia-Pacific Economic Cooperation (APEC) Summit in Hanoi in 2006, so that foreign leaders would not be aware of this censorship³⁴.

The government is also considering draft regulations proposed by the Ministry of Education and Training in February 2010 to bar private colleges and universities from training students in media, law and pedagogy. Vietnam formally legalised non-state universities in 1991, but it tightly controls their educational curricula³⁵.

As a result of these pervasive restrictions on freedom of association, expression and the press, Vietnamese citizens are denied the right to participate in public affairs (Art. 25 of the ICCPR). The Vietnamese Constitution (Article 4), which precludes political pluralism and enshrines the monopoly of the Communist Party as the "leading force of the State and society" also restricts this right. In a recent speech at the 65th Anniversary of the Security Police, Prime Minister Nguyen Tan Dung declared in no ambiguous terms that "the Police are determined not to allow political opposition parties to be established to oppose our government" (Cong An Nhan Dan, 17.8.2010). Peaceful advocacy of a multi-party system is thus perceived as crime, punishable under "national security" laws in the Vietnamese Penal Code.

32. Vietnam: Rising Dragon, Bill Hayton, Yale University Press, 2010, Page 149.

33. *Idem*.

34. *Idem*.

35. Vietnam may bar private schools from teaching media and law, DPA 22.2.2010 and <http://www.earthtimes.org>

III. National security legislation

Almost all religious and political dissidents are detained on “national security” charges in the Vietnamese Penal Code which make no distinction between violent acts such as terrorism and the peaceful exercise of freedom of expression. Previously classed as “*anti-revolutionary*” crimes, these broadly defined offences have changed only in name and number over the past decades. Despite strong recommendations by the United Nations, Vietnam has made no attempt to revise these laws, which remain the principal tool of political repression against dissent³⁶.

National security offences carry heavy prison terms. Seven carry the death penalty³⁷. They include ambiguous crimes such as: “*sabotaging the infrastructure of Socialism*” (Article 86), “*undermining the policy of national unity*”, “*sowing divisions between religious and non-religious people*” (Article 87), “*conducting propaganda against the Socialist Republic of Vietnam*” (Article 88), “*taking advantage of democratic freedoms and rights to violate the interests of the State and social organisations*” (Article 258).

During the trial of dissident Nguyen Van Dai in 2007, his lawyer Le Cong Dinh spoke out strongly in defence of free speech, and criticised Article 88 of the Penal Code on “anti-socialist propaganda”. Ironically, in 2009, Le Cong Dinh himself was arrested, and sentenced under the even harsher charge of Article 79, on “*activities aimed at subverting the people’s power*”, a crime punishable by death.

1. “Legalising” arbitrary detention

In order to avoid the adverse publicity brought by mass arrests of dissidents, Police crack-downs and highly-publicised political trials, Vietnam has created a whole arsenal of “legal” mechanisms to detain citizens without due process of law. House arrest without trial, Police surveillance, isolation (telephones and fax lines cut, cell-phones jammed, Internet accounts closed, visits prohibited) are among the methods used to silence dissidents and cut them off from the outside world.



Lawyers Nguyen Van Dai and Le Thi Cong Nhan at their trial on 11 May 2007. Photo VNN.

Administrative detention: In 2008, Vietnam repealed Decree 31/CP on “Administrative Detention”. The move was hailed by international observers as a step towards the rule of law. They did not realise, however, that the Decree had become useless with the adoption of the more repressive Ordinance 44 on “Regulating Administrative Violations” (2002), which empowers local officials not only to arrest and detain citizens, as authorised by Decree 31/CP, but also to commit them to mental hospitals or “rehabilitation camps” without any due process of law. The Ordinance is particularly used against political and religious dissidents, and legalises the arbitrary practice of detention without trial.

36. Concluding Observations of the UN Human Rights Committee: Vietnam. Geneva, 26.7.2002, Ref. CCPR/CO/75/VNM.

37. National security offences carrying the death penalty as maximum punishment in Chapter XI of the Penal Code are : High treason (Article 78), Carrying out activities aimed at overthrowing the people’s administration (Article 79), Spying (Article 80), Rebellion (Article 82), Conducting banditry activities (Article 83), Terrorism (Article 84), Sabotaging the material-technical foundations of the Socialist Republic of Vietnam (Article 85) – cf. A Selection of Fundamental Laws of Vietnam, The Gioi Publishers, Hanoi 2001.

Unlimited Pre-trial Detention: Under the amended 2004 Criminal Procedures Code (Article 120), suspected “national security” offenders may be held in custody pending investigation for four months. This period may be extended four times by the Chairman of the Supreme People’s Organ of Control, or procuracy, after which the authorities must either release detainees or “*if deeming it necessary, apply other deterrent measures*”.

Probationary Detention or Quan che (Article 30 of the Penal Code) is a second punishment inflicted on former political prisoners. It enables the State to place national security offenders “*under the supervision and re-education of the local authority*” for a period of one to five years’ probation after their release. During this time, they are forbidden to leave their homes, deprived of their civic rights and maintained under constant Police surveillance. In theory, quan che cannot be applied without a Court decision, but in practice it is automatically applied to political and religious prisoners after their release and may be prolonged arbitrarily. In 1998, when UBCV leader Thich Quang Do was released in a government amnesty, his sentence of 5 years quan che was also amnestied - in principle. In practice, however, in 2001, after he issued an “*Appeal for Democracy in Vietnam*”, the sentence was “*reactivated*” and he was detained incommunicado at the Thanh Minh Zen Monastery for the following 2 years³⁸.

Many other government critics are held under house arrest without any legal process. Dr. Nguyen Dan Quê, a prominent dissident and former political prisoner, has been held under de facto house arrest at his home in Ho Chi Minh City since he was last released from prison in 2005. Founder of the High Tide Humanists group, Dr. Que continues to appeal for a nonviolent process of democratisation. He is under constant Police surveillance.

2. Mechanisms of control

The Vietnamese government has also perfected numerous mechanisms to suppress opposition activities and maintain the population under surveillance and control. The most pervasive and efficient mechanism is the three-fold system of the **precinct security warden** (*cong an khu vuc*), the obligatory **residency permit** (*ho khau*) and the **curriculum vitae** (*ly lich*) which are the backbone of Vietnam’s vast and ubiquitous security apparatus.

The precinct security warden (*cong an khu vuc*) is a plain-clothed local policeman, but his powers extend far beyond that of an ordinary peace officer. He is in charge of about 30 extended families or “*ho*” (roughly 300 people). He is entitled to enter and search anyone’s home without warning or permission. If he finds more than three people there from outside the district, he may detain them for “*illegal association*”. If foreigners visit a Vietnamese friend’s home or stay overnight without the warden’s permission, he may accuse their hosts of harbouring foreigners illegally. Since such acts constitute breaches of “*national security*” in Vietnam, the warden is authorised to detain offenders without further consultation under the provisions of Ordinance 44.

The family residency permit or ho khau is an obligatory residence card which is essential for all administrative procedures, to obtain employment, housing, admission to school or hospital, to travel, vote, marry, or even to be buried. People without residency permits are illegal citizens and may be arrested at any moment.

38. Vietnam detains Nobel Peace Prize nominee Thich Quang Do incommunicado in the Thanh Minh Zen Monastery, International Buddhist Information Bureau, Paris, 15 June 2001.

The precinct security warden is responsible for delivering - or confiscating – the ho khau. People applying for the permit must provide a *ly lich*, or **curriculum vitae**, which contains details of every person in one’s family, their religion and political background. Vietnam is one of the few countries in the world to maintain this system of registration permits. Political and religious dissidents are routinely refused residency permits after their release from prison, and they live in a state of permanent insecurity. The ho khau is becoming an increasing problem as rural populations are expelled from their lands and seek work in the big cities. Because they have no ho khau, their children are not registered. As a result, there are millions of people in Vietnam today who do not legally exist and are totally deprived of their basic rights.



Poster celebrating 80th Anniversary of the Communist Party of Vietnam. Under the heading “Long live the glorious Communist Party of Vietnam”, it reads: “Only the Party and the Police count”. This contrasts with late President Ho Chi Minh’s motto: “The Security Police are the servants of the people”.

A recent illustration of this mechanism’s ruthless efficiency is the enforcement of **Decree 32** obliging motorbike riders to wear protective helmets. This regulation had been debated for a long time in Vietnam. It was very unpopular, and widely rejected by Vietnam’s 21 million motor-bike riders. However, the precinct security wardens systematically visited the families under their jurisdiction and warned people of the punishments for non-compliance. On the morning of 15 December 2007, when the law came into force, observers were astonished to see a near-total observance. Such an achievement shows the vast resources of Vietnam’s security apparatus. Vietnam expert Carlyle Thayer estimates the size of Vietnam’s various security forces as at least 6.7 million people – approximately one-sixth of the country’s total working force³⁹. The helmet law was actually cited by a Vietnamese parliamentary delegation to the European Parliament in 2008 as proof that Vietnam respects human rights – “*We are protecting the right to life*”, they said.

3. Legal System Development Strategy – the use of the Law to suppress Dissent

Ironically, if Vietnam can maintain and develop this arsenal of repressive legislation, it is at least in part due to Western aid donors who provide block grants with little to no accountability. Since 2002, Vietnam has received substantial funding from the European Union (EU), Sweden, Denmark, Japan, the World Bank, the United Nations Development Programme (UNDP) and a host of other donors for a programme of legal reform known as the “Legal System Development Strategy”. Since this programme was launched, Vietnam has embarked on a frenzy of law-making. Deputy Foreign Minister Pham Binh Minh told the UN Human Rights Council that Vietnam had adopted “*13,000 laws and by-law documents in which civil and political rights are elaborated*”⁴⁰. But many of these laws in fact restrict the space for the exercise of human rights. Instead of moving towards the rule of law, Vietnam is developing the rule by law – the use of law to suppress criticism and dissent. The government accepts millions of dollars from the international community - such as a recent US\$ 1.2 million UNDP grant to help “implement human rights treaties”- whilst continuing to adopt legislation in total contradiction with the UN instruments that it has ratified.

39. Carlyle Thayer of the Australian Defense Force Academy, cited in Vietnam: Rising Dragon, Bill Hayton, op. cit.

40. Deputy Foreign Minister Pham Binh Minh, National Report of the SVR under the Universal Periodic Review of the UN Human Rights Council, Hanoi 2009, Printed by Ba Dinh Printing Company, Ministry of Public Security.

IV. The right to freedom of religion and belief

Religious movements are a crucial element of Vietnamese civil society. Historically, these movements, especially Buddhism, have played a vital part in defending people's freedoms and rights. Today, in the political vacuum created by the suppression of opposition political parties, they are amongst the only surviving independent voices, and they have assumed a leading role in voicing the people's grievances and challenging the authorities not only on religious freedom but also on issues of poverty, ethnic discrimination and land rights.

Article 70 of the Vietnamese Constitution guarantees religious freedom, but it also states that no one may “*misuse beliefs and religions to contravene the law and State policies*”. As the former UN Special Rapporteur on religious intolerance Mr. Abdelfattah Amor observed, “*this provision establishes the principle of the priority of the policies of the State, a vague and extendable concept*” which “*impede[s] freedom of religion or reduce[s] it to very little indeed*”⁴¹.

Religions are subjected to a system of recognition and control. Only “recognised” religions or State-sponsored religious groups belonging to the Vietnam Fatherland Front are allowed to practice religious activities. All “non-recognised” organisations are illegal. In 2004, an “*Ordinance on Beliefs and Religions*” came into effect, which has been hailed as a sign of progress by the international community. In fact, this Ordinance is incompatible with international human rights standards and it places tighter controls on the exercise of religious freedoms. Under the Ordinance, religious education is subordinated to the “*patriotic*” dictates of the Communist Party; worship may only be carried out in approved religious establishments; it is forbidden to “*abuse*” religious freedom to contravene prevailing Communist Party policies (article 8§2). Religious activities deemed to “*violate national security... negatively affect the unity of the people or the nation's fine cultural traditions*” are banned (art. 15)⁴².

The Ordinance provides for three main levels of registration to obtain legal recognition. “Level one registration” grants the right to operate locally, and is delivered by the local authorities. “Level two” grants the right to hold religious activities wherever it operates, and is granted only by the Government Board of Religions. “Level three” is full legal recognition, and this must be recommended by the Government Board of Religions and signed by the Prime Minister. Full legal recognition is extremely hard to obtain, as it requires an organisation to demonstrate twenty years of stable operation. This is a “Catch-22” provision, since only religious organisations that have received recognition can be perceived as having operated stably for twenty years.

Alongside government legislation, numerous Communist Party directives give strict measures for controlling religions. One key document, obtained by the Vietnam Committee on Human

41. Report to the 55th Session, UN Commission on Human Rights, Ref. E/CN.4/199/58/Add.2.

42. “Vietnam officially recognises 11 religious groups: Buddhism, Islam, Catholicism, Protestantism, Hoa Hao, Cao Dai, Pure Land Buddhist Home Practice, Bani Muslim Sect, Threefold Enlightened Truth Path, Threefold Southern Tradition, and the Baha'i Community. In 2009 the government extended legal status to the Mysterious Fragrance from Precious Mountains, the Four Gratuities and the Vietnam Christian Fellowship. In October, 2009, the Assembly of God denomination was granted permission to operate”. (US Commission on International Religious Freedom, Country Report on Vietnam, May 2010. (<http://www.uscirf.gov/images/annual%20report%202010.pdf>).

Rights, is a 602-page training manual for security police and religious cadres published by the Institute of Public Security Science in Hanoi, with a print-run of one million copies entitled *“On Religions and the Struggle against Activities Exploiting Religion”*⁴³. This document gives detailed directives on the plans of the Ministry of Public Security and the Communist Party to “eradicate” all non-recognised religions that do not submit to the Communist Party’s control.

The activities of **Protestants** are tightly controlled. In 2008, the Government Board of Religious Affairs issued a new edition of a *“Training Manual for the Task Concerning the Protestant Religion”*. This is the third in a series of training manuals published since 2006. Whilst it is reportedly less critical of Protestantism in its rhetoric, it adds a whole section to *“make clear the government’s intent in ongoing regulation and tight control of all levels of religious activities in registered groups, individual congregations and meeting places”*⁴⁴. The Manual details stringent controls that must be applied to Protestants all over Vietnam, with special restrictions in the mountainous regions where the ethnic minorities live. Churches must submit in advance a complete outline of their activities for the whole year, and may only carry them out if the local authorities make no objection within 30 days. Protestant followers are required to show “patriotism”. Only eight out of 70 Protestant organisations that have applied to register have been granted full recognition to operate.

Members of “house churches” and other unrecognised Protestant organisations are subjected to harassments, intimidation and discrimination in many forms. Indigenous Christian minorities such as the Hmong in the Northwest provinces or the Montagnards in the Central highlands face particular repression. The registration process for Hmong and Montagnard Christians is particularly slow. Only 124 of more than 1,000 ethnic minority congregations had been given level one registration in February 2009. The remainder essentially worship illegally due to current registration restricting unregistered worship to private homes⁴⁵.

The **Roman Catholic Church** is recognised by the government, and discussions on establishing diplomatic relations with the Vatican are under way. However, there have been a number of very serious clashes recently between Catholics and local authorities in Dong Chiem, Thai Ha, Tam Toa, and Bau Sen parishes, predominantly over confiscation of property and lands, in which the government has reportedly hired “contract thugs”, or used armed riot police to break up peaceful prayer vigils and other religious ceremonies. In May 2010, in Con Dau village, Da Nang, police used tear gas and truncheons to disperse a funeral procession and arrested 62 Catholics. They were peacefully protesting against government plans to lease their land, which includes a Catholic cemetery with 700 tombs, to international developers to build a tourist resort. On 3 July 2010, a member of the village support group, Nguyen Nam died after severe beatings by Security Police.



Police quell demonstrations in Con Dau. Photo RFA.

43. “On Religions and the Struggle against Activities Exploiting Religion – Internal Document for Study and Circulation in the People’s Security Services”, Institute of Public Security Science, Hanoi. The copy obtained by the Vietnam Committee on Human Rights was published in 1997, but the persons who leaked the document confirm that it is still in use as a training manual for security and religious police today.

44. Briefing on Vietnam, Analysis: 2008 Internal “Training Manual for the Task Concerning the Protestant Religion”, Christian Solidarity Worldwide, 2009 - www.csw.org.uk

45. Idem footnote 44.

In November 2009, the Archbishop of Hanoi, Joseph Ngo Quang Kiet, submitted his resignation for “health reasons”. The authorities had accused him of “*lacking patriotism*” and “*taking advantage of parishioners’ beliefs to instigate unrest*” after he supported unprecedented demonstrations by thousands of Catholics protesting seizures of Church property and lands in 2007-2008. He was called to Rome to be treated for “stress” and returned to Vietnam in April 2010. He is now living in a monastery and has been replaced by government-approved Bishop Nguyen Van Nhon.



Police control identity papers at night in Giac Minh Pagoda. Photo IBIB.

Hoa Hao Buddhists: Hoa Hao is a syncretic, indigenous religion. The traditional, independent Hoa Hao Church was banned by the Communist regime and supplanted by a State-sponsored body in 1999. Members of the non-recognised Hoa Hao Church are subjected to frequent harassments. Security Police routinely beat Hoa Hao followers, ransack their temples and confiscate their belongings. On 11 August 2010, Police raided a Hoa Hao centre in Phuoc Thoi district in the southern province of Can Tho, terrorising Hoa Hao followers and seizing hundreds of prayer books, CDs and portraits of the sect’s prophet Huynh Phu So.

At least fourteen Hoa Hao dignitaries and followers are serving prison sentences from five years to life in prison for peacefully practicing their faith⁴⁶.

Buddhists from the **Lang Mai (Plum Village)** sect under the leadership of France-based Vietnamese monk Thich Nhat Hanh, suffered severe harassments in 2009. In September 2009, Police forcibly expelled 150 monks and nuns from the Bat Nha Monastery in Lam Dong, and hundreds of others were forced to leave because of sustained harassments. Several hundred have asked for temporary asylum in France and other countries on humanitarian grounds.

The Unified Buddhist Church of Vietnam: 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, it is a constant target of repression. Despite repeated appeals from the international community, Vietnam has made no move to re-establish the UBCV’s legal status, and continues to harass and threaten its members.



Security Police “secretly” film vesak celebrations at Giac Minh pagoda, Danang. Photo IBIB.

UBCV monks, nuns and followers in 20 Provincial Representative Committees set up in the Central and Southern provinces to provide spiritual and humanitarian aid to the poor are subjected to continuous harassments, surveillance and Police interrogations. During the Vesak (Birth of Buddha) Festival in May 2010, Police harassed monks and surrounded UBCV Pagodas all over the country. At the Giac Minh pagoda in Quang Nam-Danang province, hundreds of Security Police and local officials surrounded the Pagoda and prevented Buddhists and members of the Buddhist Youth Movement from celebrating the Vesak. In several

Pagodas and meditation centres in Hue, UBCV Buddhists were also harassed, threatened, interrogated and banned from celebrating the Vesak. The UBCV Secretariat at Giac Hoa Pagoda in Ho Chi Minh City is under constant Police surveillance and its Superior monk Thich Vien Dinh is summoned for Police interrogations each time he travels outside the Pagoda.

46. When will Hoa Hao Buddhists be able to practice their faith ?, Radio Free Asia, 12 August 2010.

Security Police blockaded the Giac Minh Pagoda in Danang on 24 August 2010, as Buddhists celebrated Vu Lan Day⁴⁷. From 3.00am, hundreds of Police surrounded the Pagoda and forcibly prevented Buddhists from attending prayers conducted by Thich Thanh Quang, Head of the Quang Nam-Danang UBCV provincial committee. Police assaulted Buddhists and wounded several, including UBCV nun Thich Nu Dong Tam, who had to be hospitalised due to beatings on the head.

The authorities have also intensified repression against members of the **Buddhist Youth Movement** (*Gia dinh Phat Tu*), an educational movement affiliated to the UBCV. Buddhist youth leader Le Cong Cau, UBCV monk Thich Chi Thang, Ho Du and many others have been repeatedly interrogated by Police, harassed and warned to cease their activities. Although the Buddhist Youth Movement is not officially recognized by the Communist authorities, it has an active membership of 500,000 young Buddhists in Vietnam today.

In July 2008, the UBCV's Fourth Supreme Patriarch and prominent human rights defender Thich Huyen Quang died under house arrest at the Nguyen Thieu Monastery in Binh Dinh. After subjecting Thich Huyen Quang to over 30 years in detention and isolation at various times throughout his life, Vietnam's leaders sought to draw political capital from his death by insisting that his funeral be organised by the state-sponsored Vietnam Buddhist Church. At the same time, the state-controlled media ran a vitriolic campaign to discredit the UBCV's No. 2 dignitary Thich Quang Do, accusing him and "*other extremist elements disguised as Buddhist monks*" of trying to turn the funeral into an "*anti-government rally*". Thich Quang Do refused to give in, and following strong international protests, the funeral was held under UBCV auspices. Over 10,000 UBCV Buddhist monks, nuns and followers braved Police intimidation and blockades to attend the Patriarch's funeral on 11 July 2008 in Binh Dinh.



Security Police camp day and night outside the UBCV's Giac Hoa pagoda in Ho Chi Minh City. Photo IBIB.

Appointed UBCV leader in 2008 after the death of Thich Huyen Quang, Thich Quang Do, 82, remains under effective house arrest at the Thanh Minh Zen Monastery in Saigon without any legal charge. Twelve years after his release in a government amnesty, he has still not been issued with a *ho khau* (obligatory residence permit) and cannot leave his Monastery without permission. His communications are monitored and his Monastery is under round-the-clock Police surveillance. He is not even allowed to preach to Buddhists in the Monastery. In March 2010, Thor Halvorssen, President of the New York-based Human Rights Foundation, went with a cameraman, Kris Andersen, to interview Thich Quang Do. He was assaulted by Security Police as he left the building and detained for questioning for several hours. Police told Mr. Halvorssen that he should not visit the Monastery since it is "not recognised by the State". A Japanese Buddhist monk who visited Thich Quang Do in 2010 in company with monks from the State-sponsored Vietnam Buddhist Church was stopped at the airport as he was returning to Japan and made to pay a fine of US\$ 1,000 for the "crime" of visiting the UBCV leader. Yet Vietnam continues to claim that Thich Quang Do is totally free.

A leading advocate of religious freedom and human rights, Thich Quang Do is a 2010 Nobel Peace Prize nominee and laureate of the Norwegian Rafto Prize for human rights defenders.

47. Vu Lan is the Buddhist equivalent of All Souls' Day on the 15th day of the 7th month in the Lunar calendar, a traditional festival celebrated by all Vietnamese. cf. International Buddhist Information Bureau Press Release in Vietnamese, Hundreds of Security Police blockade Giac Minh Pagoda in Danang, 25.8.2010.



Thich Quang Do speaks to peasants and farmers demonstrating outside the National Assembly's Southern Office in July 2007.

From house arrest at the Thanh Minh Zen Monastery in Ho Chi Minh City, he has continued to speak out for social justice and freedom in Vietnam, and express solidarity with Buddhists in Burma and Tibet. His “Appeal for Democracy” (2001) won signatures from over 300,000 Vietnamese and international personalities. He has also launched appeals on social and environmental issues, calling for an end to Bauxite mining (2009) and even escaping house arrest to distribute relief aid and address a demonstration of “Victims of Injustice” outside the National Assembly’s southern office (2007). In 2005, in a recorded message sent clandestinely to the United Nations Commission on Human Rights in Geneva, he stressed that economic development was untenable without human rights and democracy:

“What can we do to bring stability, well-being and development to the people of Vietnam? During my long years in detention, I have thought deeply, and I have come to the conclusion that there is only one way – we must have true freedom and democracy in Vietnam. We must have pluralism, the right to hold free elections, to chose our own political system, to enjoy democratic freedoms – in brief, the right to shape our own future, and the destiny of our nation. Without democracy and pluralism, we cannot combat poverty and injustice, nor bring true development and progress to our people. Without democracy and pluralism, we cannot guarantee human rights, for human rights cannot be protected without the safeguards of democratic institutions and the rule of law”⁴⁸.



Peasants and farmers listening to Thich Quang Do. They had travelled from the countryside and camped outside the National Assembly for over three weeks to protest land confiscation and official power abuse. Photo IBIB.

As a result of these appeals, Thich Quang Do has been subjected to repeated vilification campaigns in the state-run press. Indeed, the UBCV is condemned in many Communist Party directives for its stand on human rights. The Security Police training manual on religions (see above) accuses UBCV Buddhists of “advocating human rights, political pluralism and the multi-party system in order to create social instability and rebellion”. It instructs religious police and Security agents to “oppose, repress, isolate and divide” UBCV leaders and members, promote only State-sponsored “Buddhism with socialist orientations”, and make concerted efforts to “wipe out the [UBCV]

once and for all.” The document also gives instructions to train “special agents” for infiltration into the UBCV, not only to report on UBCV activities, but also to create schisms and dissent within its ranks. The “special agents” would not only carry out intelligence activities within the UBCV in Vietnam, but would extend these activities to the Buddhist community overseas.

Discrimination against Indigenous Peoples

The Montagnards in the Central and Northern Highlands of Vietnam suffer discrimination including social exclusion, confiscation of ancestral lands, state-sponsored migration of ethnic Vietnamese into highland areas and the undermining of traditional culture. Religious persecution is also a key issue, since many Montagnards have converted to Protestantism. In 2001 and 2004, government deployed troops and riot police to violently quell demonstrations of Montagnards in the Central Highlands provinces of Gia Lai, Daklac, Pleiku and Komtum protesting religious persecution and state confiscation of lands. Hundreds of Montagnards were

48. Video Message to the 61st Session of the UN Commission on Human Rights, Geneva, April 2005. Quê Me website: http://www.queme.net/eng/docs_detail.php?numb=426.

arrested, and hundreds fled to Cambodia to escape persecution. Many of those who returned to Vietnam under repatriation programmes faced detention, interrogations and even torture. In February 2009, 11 Montagnard Protestants were detained in Gia Lai province after police broke into a worship service and arrested all those who refused to renounce their faith or join the officially recognized Southern Evangelical Church of Vietnam (SECV)⁴⁹. Over 300 Montagnards arrested in the demonstrations remain in detention.

The Khmer Krom minority in southern Vietnam suffers religious persecution and land confiscation. Excessive force has been used against Khmer Krom farmers petitioning for resolution of land conflicts. In 2007, the authorities arrested 20 Khmer Krom Buddhist monks for participating in a peaceful protest calling for religious freedom. Several were released in 2009. However, arrests and forced defrocking of Khmer Krom Buddhist monks continues. On 22 July 2010, Security Police came to the Chua Moi Pagoda in Tra Vinh Province and forced its Abbot, Thach Sophon, to defrock. One week later, they arrested him. His whereabouts are currently unknown. Repression against the Khmer Krom minority is not widely recognised. According to the US Commission on International Religious Freedom, *“the situation of the Khmer Buddhist has been an underreported problem in Vietnam. The US State Department, despite travelling to Soc Trang province in October 2007, did not report on the arrests of Khmer monks until after they were released”*⁵⁰.

49. US Commission on International Religious Freedom, Annual Report, Washington D.C. 2010.

50. US Commission on International Religious Freedom, Country Report on Vietnam, Washington DC, 7 May 2010.

V. Detention conditions in prisons and camps



Prisoners perform hard labour in Z30A Xuan Loc camp.

Detention conditions in Vietnam’s prisons and labour camps (a Vietnamese version of the Chinese *Laogai*) are extremely harsh. Beatings and torture to obtain “confessions” are frequent. Prisons and camps are invariably overcrowded and filthy. Food rations are grossly insufficient, and prisoners rely entirely on supplies brought by their families, or vegetables they grow in the camps. Medical treatment is inadequate, and prison doctors are often simply inmates with no medical experience. Forced labour is obligatory, even in bad weather. Forms of torture include prolonged detention in solitary confinement cells with no windows or ventilation. Vietnam has made no effort to implement the recommendations made by the UN Working Group on Arbitrary Detention to improve prison conditions after their in situ visit to Vietnam⁵¹, and has ignored the Working Group’s requests to make a follow-up visit.

Former political prisoner Nguyen Khac Toan, who was detained in B14 Thanh Liet Prison near Hanoi, and Nam Ha Prison (also called Ba Sao – three stars) from 2003-2006, described the hazardous and over-crowded conditions in these prisons, where common criminals and “*political security*” offenders are often detained together in cramped cells, sleeping on cement floor with no bed and only one tiny ventilation hole, their feet in shackles. Describing conditions in Section 3 of Nam Ha Prison, he said:

“Often, there was only 50 cm of floor space per person, and there were sometimes as many as 70 persons in a single room. In summer, it was even worse, with the temperature frequently exceeding 40 degrees. At 6.00am the prisoners were forced to leave their cells and at 7.00am they started work, making things for export to Europe. Every month a prisoner had to meet a set target. If they did not meet the target assigned, they would go down a category. This meant that they would lose privileges such as the right to receive parcels and visits from their families, and have less chance of obtaining an amnesty”.

Nguyen Khac Toan tried to ask for improved detention conditions. As a result, he was shackled and kept in solitary confinement for three months⁵². He also spent several months in a “harsh regime” cell reserved for “*dangerous opposition elements*” in B14 Thanh Liet Prison. He said that prisoners were unable to walk for six months after their detention in these cells.



Le Nguyen Sang after his trial.

Le Nguyen Sang, a medical doctor and pro-democracy activist, released on 17 August 2010 after serving a four-year sentence for “anti-socialist propaganda”, spent over 14 months in a solitary confinement cell from 2006-2007. He described his ordeal:

51. Visit to Vietnam: Report to the 51st Session of the UN Commission for Human Rights, UN Working Group on Arbitrary Detention, E/CN.4/1995/31 Add.4

52. “Vietnam: Twelve human rights defenders have the floor”: FIDH & Vietnam Committee on Human Rights, Paris, April 2007.

“It was a terrible punishment. There was no air, no light. Every human being needs air and light to survive. These two simple things cost nothing – yet in Communist prisons, you cannot have them. They do this to keep you constantly under pressure, to crush your body and your spirit. I was taken out of the cell once a month for interrogations. When I stood up to walk, I staggered like a drunkard. All prisoners in solitary confinement are so desperate to get out, they look forward to interrogations, like a special privilege. They are ready to confess anything”⁵³.

He also described forced labour in the prisons and camps. All prisoners must fulfill fixed work quotas, and are punished if they fail to complete them. In K1 Section of Xuan Loc Camp, Dr. Sang said he had to shell 21 kilos of cashew nuts per day. When he was ill, or too tired to finish the task, he was put in shackles as punishment. The exploitation of forced labour is inconsistent with the provisions of ILO Conventions on Forced Labour and with article 8 (c) of the ICCPR which states that *“no-one shall be required to perform forced or compulsory labour”*.



Prisoners at work in Nam Ha prison.

Insalubrious Conditions: In Nam Ha prison, approximately 80 km from Hanoi, the prisoners’ excrements are kept in open cesspools alongside the camp and used as fertiliser to grow vegetables for the inmates. The stench is intolerable, especially in summer. Moreover, there are a number of brick factories beside the camp that spew thick smoke from their chimneys day and night. Many prisoners in the camp suffer from nausea and headaches. In June 2010, Mrs Nguyen Thi Nga, Nguyen Thi Huyen Trang and Ngo Thi Loc, the wives of political prisoners Nguyen Xuan Nghia, Pham Van Troi and Nguyen Kim Ngan sent a letter to the Supreme People’s Procuracy and the Nam Ha Camp authorities protesting against pollution in the camp. They were alarmed by the grave deterioration in their husband’s health. All three were emaciated and weak, and suffered from chronic headaches and sore throats. Nguyen Xuan Nghia’s wife said her husband’s health had deteriorated so much that she feared he would not survive his six-year sentence. At each visit, the three women bring their husbands a face-mask to protect them during their forced labour, but since they are only allowed one visit per month, this is not sufficient. The women have still received no reply to their letter⁵⁴.



Prisoners from Xuan Loc camp working on constructions outside the prison. Photo VNN.

Nguyen Khac Toan and other prisoners already complained about these toxic conditions several years ago, but no action was taken. On the contrary, prisoners who complained were punished and placed in shackles or solitary confinement. *“It is a deliberate policy aimed to break the health and spirits of the inmates, especially the political prisoners, and make them die a slow death”*, he said.

53. Dr. Le Nguyen Sang gives an interview to Radio Free Asia, 17 August 2010.

54. “Serious pollution in Nam Ha prison camp”, Radio Free Asia, 25 June 2010, “

VI. “There are no Political or Religious Prisoners in Vietnam”

Vietnam frequently states in international forums that there are “no political or religious prisoners in Vietnam”. Three political prisoners recently released from Z30A Camp in Xuan Loc, Dong Nai province declare the exact opposite, with a wealth of first-hand information to support their claims⁵⁵. The three men are **Nguyen Huu Phu**, sentenced to 10 years prison in 1999 for “activities aimed at subverting the people’s power” and released in 2009; lawyer **Nguyen Bac Truyen**, arrested in 2006 for “spreading anti-Socialist propaganda”, sentenced to three-and-a-half years in prison and released in May 2010; and **Nguyen Ngoc Quang**, arrested in 2006 for “spreading anti-Socialist propaganda” and released in September 2009. They all affirm unequivocally that political prisoners exist in Vietnam, often separated from common criminals and always subjected to a particularly harsh regime:



Lawyer Nguyen Bac Truyen escorted into court by Security Police on 10.5.2007. Photo RFA.

“The Camp wardens called us “political”. We were detained in a separate section which is called “political”. All the utensils, food, water, or anything else we were given were stamped with the letters C.T. (chinh tri – political). We were forbidden to take part in activities with other prisoners. When we received visits, we were taken to a separate section and closely watched by security officials”.

(Nguyen Bac Truyen).

“We were not allowed to read or study, to have pencils or paper, or to make phone calls to our families once a month like the other prisoners. We were detained apart from, and forbidden to speak to other prisoners. We did our forced labour separately. When we were obliged to write progress reports (kiem diem), they tried to force us to admit that we had committed activities opposing the state – in other words, that we had committed political crimes”.

(Nguyen Ngoc Quang).



Nguyen Huu Phu.

“We were detained in a separate section and isolated from the other prisoners. When the state says Vietnam has no political prisoners, they are lying and deceiving public opinion”.

(Nguyen Huu Phu).

Mrs. Nguyen Thi Kim Thanh, wife of journalist Truong Minh Duc who is currently detained in K2 section of Z30A Camp, said her husband is also subjected to a particularly harsh regime, and has become very thin and weak.

“My husband is detained in a room with 60 common criminals, but they are not allowed to

55. Vietnamese-style Human Rights, Parts 1-4, Radio Free Asia, August 7-9 2010.

He speaks to him. Many of them feel sorry for him, because he is kept on very low rations. But when they try to give him a tiny piece of fish or extra food, they are punished severely. The prison authorities are doing this deliberately to break his spirit. No-one dares speak to him, and he is constantly watched by Security Police. If he goes to the toilet in the night, five or six guards go with him. In the Prison Regulations posted on the walls, Article 5 authorises all prisoners to have pens and paper. But two days after my husband arrived at the Camp, they confiscated his pens and paper. My husband told me there are over 900 prisoners in his part of the camp, and he is the only one to be denied this right.

Families of other prisoners bring sacks of rice and lots of provisions when they come to visit. I am only allowed to bring seven kilos per month, including food and personal belongings [e.g. soap, clothes], and sometimes they reduce the quota to five kilos. It is really not enough. They weigh everything. This month [May 2010] I was only allowed to speak to my husband for 30 minutes. When I asked the Security officer what were the rules on visiting time, he replied: "There are no rules. You are lucky we let you see him even for one minute, you have no right to make any demands here"⁵⁶.



Journalist Truong Minh Duc. Photo RFA.

A number of political prisoners are serving sentences of over 15 years, and many are in very poor health. **Tran Van Thieng**, 75, a former officer in the Republic of (South) Vietnam army, is suffering from serious renal insufficiency and problems of the prostate gland. Sentenced to 19 years in prison in 1991 for "writing anti-revolutionary documents", he had previously spent six years in re-education camp. He is currently detained in the political section of K2 in Z30A Camp, Xuan Loc. In June 2010, Tran Van Thieng fell gravely ill and was taken into Dong Nai hospital. They operated on his prostate, but doctors said it was too late to treat his kidneys. Two days after the operation, he was sent back into the camp. His family is extremely concerned for his health. Tran Van Thieng is due to complete his prison sentence in February 2011. He has systematically refused to sign requests for clemency or early release, maintaining that he has committed no crime⁵⁷.

Political prisoner **Nguyen Huu Cau**, 63, is one of Vietnam's longest detained political prisoners - he has spent a total of 34 years in prison. A former officer in the South Vietnamese army, he spent six years in re-education camp after 1975. In 1982, he was arrested again for writing poetry and songs about power abuse and corruption of high-ranking Communist Party officials in the province of Kien Giang. He was charged with "sabotage" and sentenced to death. His sentence was later commuted to life in prison. He is almost blind in one eye, very deaf and extremely thin and weak, yet he continues to challenge the camp authorities for his unfair detention. In the past 28 years, Nguyen Huu Cau has written 500 letters to the authorities demanding a re-trial, but has never received a reply. He refuses to demand clemency or seek early release. He is also in the political section of K2, Z30A Camp in Xuan Loc, Dong Nai⁵⁸.



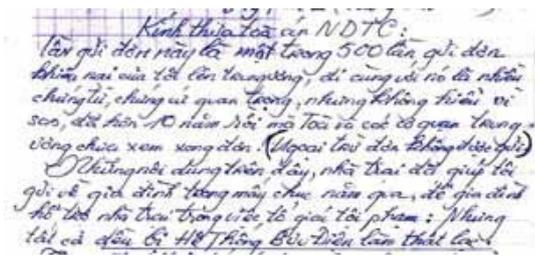
Political prisoner Nguyen Huu Cau.

Nguyen Bac Truyen and Nguyen Huu Phu know of at least thirteen political prisoners who died in Z30A prison, mostly from exhaustion, malnutrition or lack of medical care between 2000 and 2010. They report that a number of prisoners, including common criminals, have

56. The situation of Journalist Truong Minh Duc, Radio Free Asia, 12 May 2010.

57. Political prisoner Tran Van Thieng is seriously ill, Radio Free Asia, 21 July 2010.

58. Nguyen Huu Cau is serving a life-sentence, Radio Free Asia, 9 August 2010.



Facsimile of one of 500 letters sent by Nguyen Huu Cau to the judiciary authorities protesting his unfair sentence and demanding a new trial. Photo RFA.

died from contracting HIV/AIDS because the Camp authorities oblige all prisoners to use one common razor blade. Deceased prisoners are buried near the camp for three years – there is a special burial ground for political prisoners –after which their remains are returned to their families.

Prisoners who are seriously ill may be temporarily released for medical treatment, but they risk re-arrest at any time. In July 2010, Truong Van Suong, one of Vietnam’s longest-detained political prisoners, with a total of 33 years in detention, was allowed to leave Nam Ha prison and go home for medical treatment in the southern province of Soc Trang. He is serving a life sentence. Truong Van Suong suffers from a serious heart condition. In March 2010, Roman Catholic priest and dissident Father Nguyen Van Ly, 63, was released from Nam Ha prison for one year on health grounds due to international pressure. Father Ly suffered two strokes in prison. He is now under effective house arrest at his Diocese in Hue. He was sentenced to eight years in prison and five years house arrest in 2007 for “circulating anti-socialist propaganda”. He had previously spent 13 years in prison for advocating religious freedom and human rights.



Prisoners in Xuan Loc. Photo courtesy of VietnamNet

Numbers of detainees: The government never publishes statistics on prisoners of conscience, and even basic information on such prisoners is often kept secret. Former religious prisoner and UBCV Buddhist Thich Tri Luc was imprisoned in a detention centre at 237 Nguyen Van Cu, 1st District, Ho Chi Minh City for one year without his family ever being informed. He had been abducted by Police in Cambodia and forcibly returned to Vietnam despite having obtained refugee status from the

Office of the UN High Commissioner for Refugees (UNHCR) in Phnom Penh. During the year he spent in detention, the Vietnamese government told the UNHCR that they had “no information on his whereabouts”⁵⁹.

In Nam Ha prison, which has 3 sections and a total population of 3,000 inmates, Nguyen Khac Toan counted 241 political prisoners in Section 3 of the prison alone, 225 of whom are Christian Montagnards arrested during the 2001 and 2004 demonstrations in the Central Highlands (see section on discrimination against indigenous peoples). He said many of them bore scars from torture and frequent beatings. In Z30A prison in Xuan Loc, Nguyen Bac Truyen counted 43 prisoners of conscience in K2 Section, 10 in K1, and several others in K4, where mostly women are detained. Some are serving long sentences, from 10-15 years to life imprisonment. They include Truong Cong Duy (life sentence), Le Van Tinh (20 years), Nguyen Kim Hung (life sentence), Tran Long Duc (20 years), Do Thanh Nhan, who is over 80 (20 years) and Nguyen Tan Nam, 74, (19 years). Since his release, lawyer Nguyen Bac Truyen has compiled a list of 58 political and religious prisoners currently detained in Vietnam (see annex).

Amnesties: Each year since 1998, Vietnam releases several thousand prisoners in highly-publicised government amnesties. However, almost all those granted amnesty are common criminals. Very few prisoners detained for “national security” offences obtain early release. This year, the government has announced the release of up to 30,000 prisoners in the National Day Amnesty on 2 September 2010 to commemorate the 65th Anniversary of the founding

59. Buddhist human rights defender Thich Tri Luc faces unfair trial in Vietnam, 12.9.2003, Vietnam Committee on Human Rights, Paris.

of the Socialist Republic of Vietnam⁶⁰. However, Lt. General Le The Tiem announced that no national security offenders will be released in this amnesty. According to former political prisoners Nguyen Huu Phu and Nguyen Bac Truyen, no political prisoners have been released since 2007. Apart from the government's unwillingness to release political prisoners, they put forward another explanation for this:

“In order to obtain an amnesty or early release, prisoners must sign a pledge, admitting their wrong-doings and demanding clemency. Political prisoners never accept this condition. Their ideals are stronger than their will to survive. They prefer to die in prison than renounce their ideals”⁶¹.

60. In fact, 2010 is the 65th anniversary of the foundation of the Democratic Republic of (North) Vietnam in 1945. The Socialist Republic of Vietnam (SRV) was founded in 1976, after the end of the Vietnam War and the reunification of North and South Vietnam. However, this year is commonly referred to in the official Communist press as the SRV's 65th anniversary.

61. Vietnamese-style Human Rights, Part 4, Radio Free Asia, 8 August 2010.

VII. Impunity



Thousands protest the death of Nguyen Van Khuong in Bac Giang. The family carry his coffin to the People's Committee HQ to demand justice, 25.7.2010.

The penalties for camp officers and prison officials who ill-treat prisoners or violate their rights are extremely lenient in proportion to the crime, to the extent that prison guards may brutalize prisoners with virtual impunity. Under Article 298 of the Vietnamese Penal Code, officers who inflict corporal punishment on prisoners risk six months to three years in prison, two to seven years if the offence entails “*very serious consequences*” and five to twelve years for “*particularly serious consequences*”. This means that a prison guard who tortures a detainee to death would receive a maximum 12-year sentence for a crime that would be sanctioned by capital punishment in civilian life.

These lenient sanctions also apply to police and security agents. According to the official newspaper *Thanh Nien*, on 23 July 2010, Nguyen Van Khuong, 21, was stopped by Police in Tan Yen district in the northern province of Bac Giang for riding his motorbike without a helmet. Police confiscated the motor bike, took him to the station and beat him to death before handing his body to the family. The death sparked off massive demonstrations in Bac Giang after the family took the coffin to the Bac Giang Provincial People's Committee headquarters to demand justice. A Police sub-lieutenant, Nguyen The Nghiep, was arrested on 6 August 2010 for “*causing death to people in the performance of official duties*”. The Head of Bac Giang Provincial Police's Investigative Security Department Tong Duc Toan said the police-



man faced prison terms of two to seven years if found guilty. The death of this young man is presumably not a “*particularly serious consequence*” for the Bac Giang Police.

Reports of Security Police assaulting and even firing on youths for not wearing motor-bike helmets are widespread in the local media. On 6 August 2010, Police shot at two students, Nguyen Tuan Hung and his girl-friend Hoang Thi Tra in Thai Nguyen Province as they returned from school. Hoang Thi Tra received a gun shot in the leg and was severely wounded. She is now in hospital⁶².



Riot Police confront demonstrators in Bac Giang on 25.7.2010.

Impunity is also perpetuated by the restrictive press laws that prohibit journalists from reporting on abuses by cadres and government officials, or oblige journalists to pay damages to persons harmed by their articles, even if their reports are true. The leniency of punishments for policemen who beat journalists to prevent them from reporting “*sensitive*” events⁶³ helps to foster and perpetuate this climate of impunity (*see section on restrictions on freedom of the press*).

Moreover, whilst legislation to punish official violence exists, it is rarely implemented. We are not aware of any recent cases of prosecution of prison wardens for torture or ill-treatment of prisoners in Vietnam.

62. Bao Lao Dong (Worker), Hanoi, 10 August 2010.

63. Article 257 of the Vietnamese Penal Code provides a maximum penalty of seven years in prison for “*obstructing persons in the performance of their official duties*”.

VIII. The death penalty

The use of the death penalty is frequent in the Socialist Republic of Vietnam. In 2009, the government reduced the number of offences punishable by death from 29 to 22. Capital punishment is applied for crimes including murder, armed robbery, drug trafficking, rape, sexual abuse of children, and a range of economic crimes. Execution is by firing squad. A draft law was introduced in November 2009 proposing the use of two methods of execution, either by firing squad or by lethal injection.



Execution by firing squad in Vietnam. Photo Amnesty International.

Statistics on the number of death sentences and executions are not made public. Indeed, following criticisms by international human rights organisations, in January 2004, Vietnam adopted a decree classifying death penalty statistics as “state secrets”. According to the Vietnamese and international press, at least 100 people are executed each year in Vietnam. In 2007, 104 death sentences were pronounced, including 14 women. In 2010, the official legal magazine *Phap Luat* (Law) reported 11 death sentences for the month of January alone⁶⁴.

One execution field, just 20 km. outside Ho Chi Minh City, is situated next to the new buildings of Ho Chi Minh City’s French school (*Ecole Française*). The Vietnamese authorities promised French Prime Minister François Fillon during his official visit in November 2009 that executions would be stopped before the school children moved in. However, executions are continuing on the site, reportedly at the rate of two sessions per month (with possibly more than one prisoner executed each time). In March 2010, parents saw offerings placed on the site by the families of executed prisoners⁶⁵.



Cemetery for executed prisoners next to an execution field in the suburbs of Ho Chi Minh City.

Vietnam continues to use the death penalty to sanction vaguely-defined “national security” crimes in the Penal Code, despite recommendations by several UN bodies. These crimes include treason, carrying out activities to overthrow the government, espionage, banditry, terrorism and undermining peace. In 2010, human rights lawyer Le Cong Dinh and four pro-democracy activists were sentenced under Article 79 of the Vietnamese Penal Code on “*subversion*” which carries the death penalty, simply for peacefully advocating democracy and political pluralism in Vietnam.

Executions: 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 completing their duty as “executioners”.

64. Phap Luat, 6 February 2010.

65. L’école poubelle des Français au Vietnam, Express (online), 12 February 2010 and Ecole française avec vue... sur des exécutions, Le Monde, 22 April 2010.



Student Phan Minh Man, 20, hearing the death sentence at his trial in Ho Chi Minh City on 17 July 2010. Photo Vu Mai.

Conditions on death row are particularly inhumane. 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. Executions take place at 4.00am. As prisoners are not informed of their executions in advance, they stay awake in fear of being called, only sleeping when they know their turn has not come.

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 their remains are returned 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 has proposed allowing them access to bodies immediately as long as they dispose of them hygienically.

Poverty, domestic violence and grave social inequities are often the cause of violent crimes that lead to death penalties. On 17 July 2010, 20-year-old student Phan Minh Man was sentenced to death by the Ho Chi Minh City People's Court for the murder of his father. Man, his mother and his young sibling had suffered repeated beatings from his father who, after losing work as a truck driver, plunged into despair and alcoholism. Man committed the crime just two days after his father had beaten his mother close to death. She was too poor to pay for a lawyer. The court did not take into account the attenuating circumstances. The FIDH, Vietnam Committee on Human Rights and other international organisations have called for the sentence to be commuted⁶⁶.

66. See letters to the Vietnamese leadership by Vietnam Committee on Human Rights, Paris, 24 July 2010, Hands off Cain, Rome, 2 August 2010 and Press Release by FIDH, Paris, 3 August 2010.

IX. The Right to Peaceful Assembly – the “Victims of Injustice”

Although the right to assembly is guaranteed by the Constitution (Article 69), Vietnam systematically suppresses peaceful demonstrations and punishes protesters under criminal law. In 2008, scores of students and demonstrators were arrested after Police forcefully disbanded peaceful protests against Chinese claims of sovereignty over the Spratley and Paracel Islands and Vietnamese sea and land territories. Many are currently serving prison sentences.



The people of Soc Trang province seek justice” – demonstration by “Victims of Injustice” (Dan Oan) against land confiscation.

Peaceful demonstrations by farmers and peasants, known as the **“Victims of Injustice”** (*Dan Oan*), many of them women, have also been brutally repressed. This is a massive rural protest movement, in which dispossessed farmers march from the countryside to Hanoi or Ho Chi Minh City (Saigon) to protest confiscation of lands for development projects and lack of compensation. They file complaints to the authorities and camp for days, even months, outside government buildings such as the government’s Complaints office in Cau Giay Street, Hanoi, or Vo Thi Sau street in Ho Chi Minh City. The movement, which began after Vietnam launched its policy of economic liberalization or *doi moi* in the 1980s, has reached explosive proportions, with over two million complaints filed over the past 10 years. Many Police routinely beat and arrest demonstrators or forcibly return them to their homes.

The government has set up local “Citizens’ Complaints Offices” in the provinces all over the country. Peasants and farmers routinely petition these offices, but they complain that local officials are often arrogant and corrupt, refusing to settle complaints or even to receive them. In one typical visit to the provincial Complaints Office in Nghe An, near the border of Laos in April 2010, 60 Victims of Injustice were pushed back violently by security officials who refused to hear their grievances:

“The officials received us with guns. They used guns to prevent us from entering the building, and guns to frighten us away”. (Mrs Ho Thi Bich Thuy). “The people who took part in our demonstration were war veterans. Some have lost an arm or a leg in the revolutionary struggle. Now the Communist Party is in power, they don’t need us any more and they chase us away with firearms !”. (Mr. Tran Van Huy).



Peasants and farmers gather outside government buildings to file complaints.

Nghe An is traditionally a cradle of Vietnamese Communism, yet even Communist Party members here are shocked by the corruption and abuse of power by local cadres. During this demonstration, Party member Pham Van Minh declared:

“Communist Party cadres are all rotten and corrupt. They have turned the Party into a “devil”, and made the people suffer. In brief, the Communist regime is completely rotten. Today, the people endure terrible injustice, all over the country Party cadres make the people suffer. As a member of the Communist

*Party, I am here to speak out for the Victims of Injustice. The Party has stolen the people's lands!"*⁶⁷

Similar complaints come from Victims of Injustice camping outside the government office in Hanoi:



"Dan Oan from Vinh Phuc beg the National Assembly to find a solution", demonstrations in Hanoi. Photo RFA.

"This is the fifth New Year's festival I have spent here [in the park]. They evicted me from my home, with next to no compensation" (a peasant from Ninh Binh). – "I have been a Victim of Injustice since 1990, since my family's fields and cattle were seized in the collectivisation campaign. I have complained to the village, the district and the provincial authorities, right up to the government – but no one will listen to my grievances" (an 80-year-old peasant woman from Khanh Hoa, central Vietnam). – *"I was a civil servant for 31-32 years; then I heard*

the Communist Party say we should denounce corruption. I believed them and did so, but then I was punished and thrown out of my job. They even evicted me from my home. They finally punished the people I denounced for corruption – but they have done nothing to restore my situation or my rights" (Ms Nguyen Thi Hieu from Tuyen Quang province). – "I come from a family of revolutionary veterans. In my petition to the Party I wrote: We have sacrificed our lives, now we have lost our homes. Oh Party, can you feel our sorrow? My family is miserably poor, we live in a hut barely 12m2. They tricked us and stole our lands with no promise to return them... Now some other people have built houses on our lands" (Mrs Nguyen Thi Van from Nam Sach, Hai Duong).

In many cases, Police suppress peaceful protests with excessive violence. On 26 May 2010, a 12-year-old boy was shot dead and two others gravely wounded in Thanh Hoa Province when Police fired on villagers protesting inadequate compensation of their lands to build the Nghi Son Oil refinery, a six-billion dollar project. The villagers had tried to prevent trucks from unloading at the construction site, but had not engaged in violence or destroyed property⁶⁸.



Peasants and farmers from An Giang province in southern Vietnam demonstrate outside the Government General Inspections Office in Hanoi.

In 2007, Buddhist monk Thich Khong Tanh was arrested by Security Police in Hanoi for attempting to distribute relief aid to the Victims of Injustice collected by the Unified Buddhist Church of Vietnam. He was carrying approximately US\$ 19,000 in Vietnamese dong. Police confiscated the money, subjected Thich Khong Tanh to intensive interrogations and forcibly sent him back to Ho Chi Minh City. High-ranking Police officials prohibited him from helping Victims of Injustice, saying that the farmers were not real victims, but people *"incited by hostile forces to file complaints in order to oppose the government"*⁶⁹.

In order to stem public protests, the government adopted Decree 38/2005/ND-CP which prohibits demonstrations outside State agencies and public buildings, and bans all protests deemed to *"interfere with the activities"* of CPV leaders and State organs. The *"Directives for the Implementation of Decree 38"* issued by the Ministry of Public Security in 2006 prohibits gatherings of more than five people without permission from the state⁷⁰. In 2005, CPV Secretary-general Nong Duc Manh exclaimed: *"It is abnormal for people to demonstrate with banners. In many cases, our democracy is excessive"*.

67. For all the following quotes from Victims of Injustice, see Radio Free Asia: Victims of Injustice in Nghe An demonstrate in protest against the local authorities (16 April 2010); Victims of Injustice: victims of the Land Law? 1.1.2010.

68. Boy killed in demonstration against Vietnam Oil refinery, DPA, 26 May 2010.

69. Thich Khong Tanh is prohibited from helping Victims of Injustice and forcibly returned to Saigon, International Buddhist Information Bureau, Paris, 24 August 2007.

70. "New Decree: Permission required for gatherings of over 5 people", RFA 20.6.2006.

X. Violations of labour rights

Economic liberalisation and competition to provide cheap labour for the global market has led to serious abuses of labour rights in Vietnam. In 2008, Vietnam suffered its worst economic crisis, with inflation rocketing to 27% and the price of rice up by 72%. With a minimum monthly wage of approximately 650,000 dong (US\$ 36) for workers in State-owned factories⁷¹ and 800,000 dong (US\$ 50) in foreign-owned firms, low-wage workers were unable to survive with the spiralling prices of food, fuel and rent. Hundreds of thousands of workers staged wildcat strikes denouncing low pay and sweat-shop working conditions. The Minister of Labour, War Invalids and Social Affairs Nguyen Thi Kim Ngan told the National Assembly in May that *“around 13 million people are seriously affected by rising prices. That is not to mention another 13 million poor people and tens of millions of others living near the poverty line, including ethnic minority people”*.⁷²

Discontent in the workplace is exacerbated by the growing wealth disparity between workers and the management. Indeed, Vietnam has founded its whole development strategy on its industrious, docile and low-paid workforce⁷³. Giving priority to the managers and foreign investors, the government has turned a blind eye as top officials arrange deals for investors and receive handsome pay-offs in return. In this climate of rampant corruption and power abuse, a new class of business-minded cadres has emerged who use their positions to enrich themselves, often at the workers' expense. Even high-ranking Party and military veterans such as war hero General Vo Nguyen Giap, denounce the powers and impunity of this unscrupulous elite, who *“buy positions, power, diplomas and degrees, buy off the winning tender for their commercial ventures, they even “buy” their way out of punishment and prison.”*⁷⁴ Even the lower ranking cadres routinely spend for lunch what a worker earns in one month.

By keeping wages low (the minimum wage is fixed by the government), Vietnam has succeeded in attracting significant foreign investment. Indeed, many firms which initially invested in China are now relocating to Vietnam because of cheaper pay. Worker rights are routinely sacrificed in the race to keep wages low. Workers operating in toxic or dangerous environments are often not supplied with protective clothing, and work-related accidents and deaths are on the rise. According to Mr. Phan Dang Tho, Vice-director of the Inspection Department in the Ministry of Labour, Invalids and Social Affairs (MOLISA), accidents in the workplace have increased because fines for safety violations are inadequate. *“The compensation for each fatal case is equal to just a few dozen months of an employee's salary, so the employers are not afraid”*. Figures released by the Ministry showed 6,250 accidents in 2009 and 550 deaths. The real number is undoubtedly much higher, since most accidents are never reported.⁷⁵

Instead of seeking to address workers' grievances, Hanoi is using threats and legal sanctions

71. The minimum wage for workers in State-owned factories was raised to 730,000 dong (US\$40) on 1 May 2010.

72. Vietnamese minister says 13 million “seriously affected by rising prices”, BBC Monitoring Asia Pacific, 2 June 2008, from Vietnam News Agency website.

73. “Over the last 20 years, Vietnam has successfully attracted foreign investment because of its low-cost labour force”, Deputy Prime Minister Nguyen Thien Nhan, Vietnam News Service, January 15 2008.

74. Open Letter to the CPV leadership, General Vo Nguyen Giap, Hanoi, 3 January 2004.

75. “Low fines for work safety infringements blamed for Vietnam deaths”, 4, March 2010. www.earthtimes.org

to suppress their protests. Government Decree 11 adopted in 2008 obliges workers to pay their employers three months salary in compensation if their strike is deemed to violate the Labour Code⁷⁶. Whilst the 1995 Labour Code authorises the right to strike, it also restricts this right severely. Strikes are prohibited in 54 sectors considered to be of “public service” or important to the national economy or defence (including the post office, public transport, banking...)⁷⁷. The Prime Minister can terminate any strikes perceived as “detrimental to the national economy or public safety”⁷⁸.

Worker rights are further restricted by the lack of independent arbitration. The Labour Law does not authorise freedom of association. All labour unions are under the umbrella of the “Vietnam General Confederation of Labour” (VGCL) that is controlled by the Communist Party of Vietnam. Free trade unions are prohibited. In 2007, several people who set up an unofficial United Worker-Farmers Organisation (UWFO) were arrested and sentenced to harsh prison terms simply for seeking to protect workers’ rights, including the right to form independent trade and labour unions. The UWFO’s spokesman Tran Quoc Hien was sentenced on 15 May 2007 to five years in prison and two years of house arrest on charges of “conducting propaganda against the Socialist Republic of Vietnam” (Article 88 of the Penal Code), and members Doan Van Dien, Doan Huy Chuong, Tran Thi Le Hang and Nguyen Thi Tuyet received sentences ranging from 18 months to four-and-a-half years imprisonment in December 2007, on charges of “abusing democratic freedoms to encroach upon the interests of the State” (Article 258 of the Penal Code).

Working conditions for women, who make up 80% of the workforce in the textile industry and manufacturing, one of Vietnam’s major export areas, are especially harsh. “*Lao Dong*” (Labour), the official newspaper of the Vietnam General Confederation of Labour reports that women in the textile industry are made to work overtime without extra pay in appalling conditions, with 50% of female workers suffering from weight-loss, declining eye-sight, back-pains and migraine in several textile factories in Ho Chi Minh City. According to the International Confederation of Free Trade Unions, abuses of women’s worker rights are particularly serious in Export processing Zones (EPZs).⁷⁹

Trafficking for labour exploitation has become a lucrative business. The Vietnamese government earns substantial revenues from the “export” of workers to countries such as the United Arab Emirates, Qatar, Bahrain, Libya, Taiwan, China, Japan, Malaysia and South Korea. The Ministry of Labour, Invalids and Social Affairs (MOLISA) has set a target of 85,000 exported workers for 2010 and 23,046 were sent abroad in the first four months of the year⁸⁰. A 2008 Labour-Cooperation Pact signed with Qatar pledged to send 100,000 Vietnamese guest workers to Qatar over a period of three years⁸¹. On arrival in these countries, workers are often compelled to work in substandard conditions for little pay, with no access to legal recourse. Vietnamese labour export companies, most of which are state-affiliated, often charge excessive fees to recruitment agencies, making workers highly vulnerable to debt bondage and forced labour. In 2010, the U.S. State Department put Vietnam on its “Tier 2 Watch List” for human traf-

76. “Providing for compensation done damage caused by unlawful strikes to employers”, Decree 11/2008/ND-CP, Jan. 2008.

77. International Confederation of Trade Unions, Annual Survey of Violations of Trade Union Rights, Brussels, 2006.

78. SRV Labour Code, adopted June 23 1994, came into effect 1 January 1995.

79. Asia, brutal repression of workers’ rights, ICFTU Online, 18.10.2005.

80. Vietnam News briefs: Labour and Education, 11 May 2010.

81. The Insidious nature of human trafficking: Vietnam, John E. Carey, 12 January 2008.

ficking. The report noted that “*debt bondage, confiscation of identity and travel documents, and threats of deportation are utilized to intimidate victims*”, yet Vietnam “*had not put into place adequate measures to protect the rights of Vietnamese migrant workers or taken adequate measures to prevent new incidents of labor trafficking*”⁸². Vietnam has not signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

82. US Department of State, 2010 Report on Trafficking in Persons, 10th edition.

XI. Children and women's rights



Child laborers are forced to work up to 16 hours a day at some garment factories in Ho Chi Minh City. Photo Tuoi Tre magazine.

1. Violations of the Rights of the Child

Vietnam's policy of "doi moi" - economic liberalisation under authoritarian control, has negatively impacted the most vulnerable populations, notably women and children. Under doi moi, education and health have become paying commodities, penalising poor families in the rural areas and forcing many poor children, especially girls, to drop out of school. Over 50 million people, or 80% of Vietnam's rural population suffer from poor sanitation. As a result, 80% of rural children suffer from parasitic worm infestation, and diarrhoea and acute respiratory diseases are the main causes of death and illness in children under five⁸³. Child abuse and violence has increased 13-fold over the past two years⁸⁴. Child labour is widespread. The Vietnamese media reports that trafficking rings take children from poor families, especially in the northern rural provinces of Thai Binh, Bac Giang and central Vietnam to sell as "apprentices" in Ho Chi Minh City, where they are held in virtual slavery. The U.S. State Department's 2010 Report on the Trafficking in Persons notes that "*Vietnamese children from rural areas are subjected to commercial sexual exploitation, forced street hawking, and forced begging in the major urban centers of Vietnam, often as a part of organised crime rings, and some Vietnamese children are victims of forced and bonded labor in urban family-run house factories. Vietnam is a destination for child sex tourism*"⁸⁵.

2. Violations of the Rights of Women

Despite extensive legal commitments taken by the government, both internationally and nationally, to promote gender equality, grave violations of women's rights persist in Vietnam. Violence against women, trafficking of women and girls, prostitution, the growing problem of HIV/AIDS, violations of reproductive rights are serious problems, yet they frequently go unacknowledged or unpunished by the authorities. This discourages women from denouncing abuses, and also sends the message that such forms of discrimination are socially acceptable in Vietnam.

Trafficking of young girls and women for sexual exploitation has literally exploded since Vietnam opened to a free-market economy, exacerbated by rocketing wealth disparities and official corruption. One government official has described it as "*a negative phenomenon arising from the revival of State-controlled capitalism*"⁸⁶. Yet insufficient measures have been taken to combat this crime. Major-general Nguyen Viet Thanh, Deputy Director-general of the Ministry of Public Security Police Department declared:

83. 80% of Vietnam Rural suffer from Poor Sanitation, Vietnam News Briefs, 27 March 2008; report on a nationwide study conducted by the Ministry of Health and UNICEF.

84. Vietnam reports 13-time increase in child abuse, VietNamNet Bridge, 23.8.2008. Report by Dang Hoa Nam, deputy head of the Child Protection and Care Department, Ministry of Labour, War Invalids and Social Affairs (Molisa).

85. US Report on the Trafficking of Persons, June 1010.

86. Nghiem Xuan Tue, 14.12.1994.

“Never before has the dignity of Vietnamese women been so basely defiled as it is today. Sex rings lure women into prostitution, brazenly exhibit their pictures, and put them on auction. Thousands of women have been forcibly sold abroad to become sex slaves. Yet the Police and responsible forces have taken insufficient action to uncover and prevent these crimes. The local authorities are particularly ineffective. They know nothing about what happens in their localities, and often begin investigation only after the cases have been brought to court”.⁸⁷

Sex rings offering “women for rent” in which women and girls are subjected to intensely cruel treatment is a “new form of business”, according to Lt.-colonel Pham Van Dem of the Border Police Political Department. The girls are held in total secrecy and rented on a monthly basis to brothels or bars, where they are exploited to a maximum. When they have lost their health and beauty, they are classified as “out-of-date”. The pimps then traffic them across the Chinese border and sell them to poor men in remote regions who cannot afford a wife, and who pool money together to “share” a woman for sexual services and child-bearing. The women live in atrocious conditions, permanently locked up and beaten cruelly. “Girls who try to run away have their tendons cut to prevent them from walking. Those who manage to escape are traumatized and permanently deranged”.⁸⁸



Young women to be sold as brides to Malaysia, South Korea and Taiwan. Photo VNN

Victims of trafficking who manage to escape and return to Vietnam have no legal protection. According to official reports, many rural women find that their land has been confiscated during their absence. Moreover, if they have children born overseas, the children are not entitled to the obligatory residence permit, or “*ho khai*”, which means that they are illegal citizens, deprived of the right to go to school or receive health care – “*legally speaking, these women and their children are not entitled to legal aid*”.⁸⁹

Vietnamese trafficking victims are recruited through fraudulent marriages, false promises of employment, licensed and unlicensed migrant labour recruiting agencies. They are sent mainly to Cambodia, China, Thailand, Hong Kong, Macau, Malaysia, Taiwan and South Korea, where they are victims of sexual and labour exploitation. Although precise statistics are impossible to establish, the Vietnamese media and international organisations speak of tens of thousands of women and girls as victims of trafficking. Vietnamese women in Taiwan said they had paid sums up to US\$6-8,000 to come to work in Taiwan, often using their homes and land as collateral with the bank to pay the fees charged by the recruiting agencies. Usually from poor families, they had hoped to support their relatives in Vietnam through their wages. Those who escape from situations of sexual or labour exploitation have no means of paying off their debts. Some recruiting agencies collaborated with local Communist Party officials to threaten their families in Vietnam. In July 2010, Thach Thi Hoang Ngoc, 20, was stabbed to death by her Korean husband, just one week after she arrived in the country. She is the fourth Vietnamese bride killed in Korea in the past three years. Duong Thi Bich Phung, 22, went missing in July 2010 after running away from her Korean husband to escape sexual abuse and beatings. Her mother received a phone call announcing that she must pay \$US600 to the Korean husband.⁹⁰



Mrs Nguyen Thi Dam, the mother of escaped bride Duong Thi Bich Phung, with the photo album of her daughter's wedding. Photo VNN.

87. Nearly 11,000 women illegally leave the country to be married to foreigners, Vietnamnet, 29.12.2006.

88. Trafficking of women and girls increases daily, Vietnamnet 23.12.2006.

89. Lured into prostitution... across the border, Vietnamnet, 18.11.2004.

90. Vietnamese bride on the run from sexual abuse, VietnamNet 9 August 2010.

Prostitution is increasing rapidly, and is also linked to Vietnam's open-door economic policies. According to the Coalition against Trafficking in Women:

“After Vietnam shifted to a market economy, prostitution became so integrated into trade relations that business deals are often closed with the use of women as incentive or reward to foreign investors, bureaucrats and corporate representatives”.⁹¹

Prostitution rings are often run by, or under the “umbrella” of, corrupt Party cadres and local officials, who demand payment from the sex workers in return for their protection⁹². In 2003, the National Assembly adopted Ordinance 10/2003/PL-UBTVQH11 on “Prevention and Suppression of Prostitution” which came into force on 1 July 2003. Under this Ordinance, civil servants, military and police personnel face stiff fines for “*using their authority to protect prostitution*”. However, this is an administrative Ordinance, which only imposes fines, but no criminal sanctions. Moreover, the names of offenders are communicated to their bosses, but not to their families, in order to “*to protect the dignity of state employees*”⁹³. 70% of men using prostitutes and frequenting brothels are reportedly members of the Communist Party or government officials⁹⁴.

Domestic violence: While reliable statistics and up-to-date studies are not available, both Vietnamese and foreign experts agree that the phenomenon is disturbingly widespread. According to the state-controlled media, one woman dies every three days in Vietnam because of domestic violence⁹⁵. In fact, the real figures are much higher, as families rarely report the cause of such deaths. Low-education level, alcoholism and poverty are the major causes. As the poverty gap is rocketing in Vietnam and social inequity increases, the rise of domestic violence is entailing social tragedies, as in the case of 20-year-old student Phan Minh Man, sentenced to death for murdering his alcoholic father, who had brutally beaten his mother (*see section on Death Penalty*).

Selective Abortion is increasingly practised in Vietnam. According to a recent UN report, abortions of female foetuses have increased significantly in recent years, especially in more prosperous areas such as the Red River Delta region, Ho Chi Minh City and in the southern provinces of Binh Duong and Dong Nai. The boy/girl ratio is now 110 boys/100 girls, an imbalance that will have serious long-term implications.⁹⁶ This practice reflects patriarchal stereotypes which are the root cause of gender discrimination and domestic violence in Vietnam today. The UN urged Vietnam to disseminate information to a wide range of relevant stakeholders, not only the general public and civil society but also political leaders and health authorities, on the harmful effects of sex selection. The CEDAW Committee also expressed concern about the high rate of abortions in Vietnam – one of the

91. Trafficking in Women and Prostitution in the Asia Pacific, Coalition Against Trafficking in Women, <http://www.catwinternational.org> accessed December 2006.

92. For decades, the official press has published reports of the direct or implicit connivance of party cadres, military and state personnel with organised prostitution and the sex trade. The Ho Chi Minh City weekly “Cong An” (Security Police Review), reported the arrest of Huynh Anh Dung, Director of the Employment Centre for the Ho Chi Minh City Youth League, who “took advantage of his office to act as an intermediary in Prostitution rackets... and headed an illegal organisation which used Vietnamese youths and girls who belonged to the League for prostitution” (15.8.1992). However, following a government crack-down on investigative reporting and new legislation sanctioning journalists who reveal such information, fewer reports have been published in recent years. The fact that the National Assembly has adopted legislation sanctioning CPV and state officials is sufficient evidence that this is a serious problem in Vietnam.

93. Vietnam cracks down on sex trade, Agence France Presse, July 14, 2003.

94. Violations of the Rights of Women in the Socialist Republic of Vietnam, Alternative report on the Implementation of the UN Convention on the Elimination of Discrimination against Women (CEDAW), Vietnam Committee on Human Rights, January 2007 - http://www.queerme.net/eng/doc/VCHR_Alternative_Report_on_CEDAW_2007.pdf

95. Suffering hell in the family, VietnamNet, 29.12.2006 and Swiss Agency for Development and cooperation, “Developing gender equality through preventing domestic violence, 5 March 2008.

96. Recent change in the sex ratio at birth in Vietnam, UNFPA, Hanoi, August 2009.

highest in the world – and urged the government to enhance women’s access to health care, especially to sexual and reproductive health services⁹⁷.

Land Use Rights is one of the most serious problems affecting rural women today. Under Vietnam’s socialist system, “*land is the property of the entire people*”, but it is “*uniformly managed by the State*”. The State thus leases the land, and issues “Land Use Rights Certificates” (LURC). The Marriage and Family Law requires the names of both husband and wife to be registered on the LURCs. The government promised to print new LURCs, as the old ones only contained space for the husbands’ name. However, new certificates have either not been printed, or not sufficiently circulated, resulting in prolonged denial of women’s access to land.

Lack of implementation, lack of awareness, insufficient information, widespread official corruption, power abuse and the lack of an impartial judiciary result in mass abuses of women’s right to land. According to the UN Volunteers report, only 3% of Land Use Right Certificates are registered in women’s names, and 3% are jointly-held⁹⁸. Due to traditional practices, women rarely inherit land or have any say over their parents’ land-use rights. This is in contravention to Vietnam’s international obligations as a State Party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which requires the State to ensure the “*same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property*”⁹⁹.



Women farmers and peasants (Dan Oan) live in make-shift shelters in Hanoi as they demonstrate for land rights. Photo VCHR.

Women belonging to ethnic minorities are especially victims of this practice. Information on land rights is not translated into indigenous peoples’ languages, and they are therefore not aware of their rights. Indeed, the UN Independent Expert on Minority Issues, Ms Gay McDougall, who conducted an official visit to Vietnam from 5 to 15 July 2010, expressed concern about the insufficient access to information and education in minority people’s own languages, which hampered indigenous children in their studies¹⁰⁰.

After years of work on their husband’s land, women suddenly find themselves homeless, expropriated without the slightest compensation and reduced to utter poverty when their husband dies. Often the in-laws seize the land, and banks refuse to give loans to widows because the LURCs only mention the deceased husband’s name. Thousands of women have joined the movement of “Victims of Injustice”, marching to Hanoi or Ho Chi Minh City to seek a remedy for their grievances. The Vietnam Committee on Human Rights has received hundreds of appeals from “Victims of Injustice”, such as the case of Mrs Nguyen Thi Gam, 69, who was expelled from her house and land in Bai Chay district, Quang Ninh province, after the authorities decided to build a highway. She wrote dozens of appeals to the government, and camped out in Mai Xuan Thuong Park, outside the Complaints Office in Hanoi. In her appeal, typed with the help of local residents, she wrote: “*I am writing with all the humiliation and grief of a Vietnamese woman deprived of her rights. This is my sixth year in the park. When will my misery end ?*”¹⁰¹



Mrs Nguyen Thi Gam demonstrates in Hanoi. Photo VCHR.

97. Concluding remarks of the Committee on the Elimination of Discrimination against Women: Viet Nam, CEDAW/c/VNM/CO/6, 2 February 2007.

98. Doi Moi and its discontents: Gender, Liberalisation, and Decollectivisation in Rural Vietnam, Susie Jacobs, Journal of Workplace Rights, Vol. 13 (1) 17-39, 2008.

99. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Article 16(h).

100. Statement by the UN Independent Expert on Minority Issues, 21 July 2010.

101. Idem, footnote 49.

XII. Corruption



"Tien Giang officials are corrupt. Please will the government save the people". Rural people from the South stage anti-corruption demonstration in Hanoi.

Economic liberalisation under one-Party control, without the safeguards of a free press and independent judiciary, has fostered endemic corruption which has permeated all echelons of the Party and state. According to the official press, corruption has reached the proportions of a “national catastrophe”, with up to 40% of public funds “disappearing” each year through corruption and graft. Not only is corruption growing, but it is also “becoming more sophisticated”¹⁰² as international aid pours into the country - Vietnam receives five billion US dollars per year in development aid and loans from the international community¹⁰³. In December 2008, Japan temporarily

suspended annual low-interest loans of about US\$ 1.1 billion to Vietnam on concerns of corruption and suspected embezzlement of development aid.

In Transparency International’s 2009 Corruption perception index, Vietnam ranks 120 out of 180 countries, with a 2.7 index on a scale ranging from 0 to 10¹⁰⁴. In 2010, the Political and Economic Risk Consultancy (PERC) listed Vietnam as Southeast Asia’s second most corrupt country¹⁰⁵, noting that “*Vietnamese public servants are too wealthy in relation to their official salaries; this leads to abuse of power and corruption as well as a lifestyle of excess.*” Indeed, the opulent life-style of many Communist Party cadres and government officials contrasts starkly with the poverty of ordinary people in Vietnam, where 77% of the workforce is employed in agriculture and the unofficial economy, and the poverty level among ethnic minorities (14% of the population) is over 50%. Moreover, although the number of Vietnamese living under the poverty line dropped to 11% in 2010, this figure does not reflect the widening wealth disparity in Vietnam. Vietnam’s poverty line is merely US\$ 18 per month. Anyone earning over that is not classified as “poor”.

At the top end of the scale, high-ranking Party cadres and government officials count their revenues in millions. Prime Minister Nguyen Tien Dung and his relatives have just built a sumptuous temple for the Nguyen family costing over US\$ 2 million. Deputy Defense Minister Nguyen Chi Vinh, who is also head of the military’s secret services “General Department 2” (GD2) possesses five luxurious villas in Vietnam, and has just sold two plots of land in Laos for a total of US\$ 5.2 million¹⁰⁶.

One instance of the colossal sums embezzled by high-ranking officials was the Project Management Unit (PMU) 18 scandal, which broke out in 2006 after journalists revealed that PMU 18 staff had used millions of dollars to gamble on football matches. Transport Minister Dao Dinh Binh was forced to resign and his Deputy Minister Nguyen Viet Tien was arrested and stripped of his Communist Party membership. However, when the affair went to court in 2008, two of the journalists who uncovered the scandal were sentenced for “*damaging the prestige of some high-ranking officials and causing negative public opinion*” (see section on press freedom). Deputy Minister Nguyen Viet Tien was released for “lack of evidence” and his Party membership was subsequently restored.

102. Quotation from Deputy Prime Minister Truong Vinh Trong, who is also deputy director of the government’s Central Committee Anti-Corruption Steering Committee, in Vietnam’s endless corruption campaign, Le Si Long, East Asia Forum, 16 April 2010.

103. Le Vietnam Marxiste découvre richesse et inégalités, Le Monde, Paris, 15 June 2010.

104. Transparency International, Annual Report 2009, p. 49.

105. <http://www.asianews.it/news-en/Hanoi-cracks-down-on-corruption-among-public-officials-18328.html>

106. Petition to the Vietnamese Communist Party leadership by 38 CPV veterans, Hanoi 2010.

XIII. Voices from Within: Communist Party Veterans call for change

With the approach of the 11th National Congress of the Communist Party of Vietnam (CPV) in 2011, a wide spectrum of Vietnamese citizens, from bloggers and dissidents, academia to prominent military and CPV veterans are strongly challenging Party leaders on policy issues and questions of democracy and human rights.

One burning issue is the Communist Party's handling of its relationship with China. Recently, China has stepped up claims of sovereignty on disputed territories such as the potentially oil and gas-rich Spratley and Paracel archipelagos, as well as Vietnamese territorial lands and waters conceded in controversial Sino-Vietnamese Land and Sea Border treaties in 1999 and 2000. In response, Vietnam has not made strong diplomatic protests nor taken steps to protect the disputed territories. On the contrary, the government has cracked down on all its critics, causing even deeper discontent. This question of Vietnamese sovereignty and the danger of "losing the country" has forged a consensus between Vietnamese from all walks of life, at home and abroad, for the very first time.

A related issue is the problem of Bauxite mining in the Central Highlands. Scientists, environmental specialists, even Buddhist leader Thich Quang Do and top military veterans such as General Vo Nguyen Giap have strongly denounced the environmental dangers of this project, which has been tendered to Chinese firms. Open-cut mining of Bauxite ore to make alumina will destroy the forests, contaminate the waterways, produce mountains of toxic waste or "red sludge", and damage the culture and lifestyle of thousands of people belonging to ethnic tribes in the region. Critics are also concerned that the project raises serious security concerns, especially in this period of tension between Hanoi and Beijing, with the settlement of thousands of Chinese workers in the Central Highlands, a strategic defence zone situated on the borders of Laos, Cambodia and Vietnam. Despite widespread protests, the government is going ahead with the plan.

Both these issues, along with serious concerns on corruption and power abuse, were raised in an extremely strong Petition to the Politburo and Party leadership by 19 eminent military and CPV veterans on 15 May 2010. Describing themselves as "*retired high-ranking officials who have held posts of responsibility in the State apparatus, who are 80-90 years old, with 60-70 years of Party membership*", the 17 signatories¹⁰⁷ called on the Party to make the 11th National Congress "*truly democratic, with*

107. The signatories are: **Le Huu Duc**, Major General F.650. 87 years old, CPV member for 64 years; **Nguyen Trong Vinh**, former member of the Party's Central Committee and revolutionary veteran; **Huynh Duc Huong**, Lt.-General, Military Zone Political Commissar, Commander plus Political Commissar of the voluntary forces and military advisor in Laos, Vice-Minister of Labour, Invalids and Social Affairs; **Nguyen Huy Van** (Kim Son), revolutionary veteran, member of the CPV for 50 years; **Nguyen Thi Cuong** (Ms), CPV member for 64 years, Independence Medal, 3rd grade; **Tran Duc Que**, revolutionary veteran; Huu Anh, Lt.-General, revolutionary veteran, former head of department in the Ministry of Defense; **Tran Ba**, 85, former soldier in the "Southward march", 46 years in the army, 64 years CPV membership; **Le Huu Ha**, Revolutionary veteran, Head of the Organising Committee of the Fourth Interzone, former consultant

genuine criticisms and self-criticisms, with a real debate to uncover our errors and shortcomings, and avoiding “ready-made” statements following orders from above...”

Specifically, they demanded the sanctioning and demotion of four Party leaders at the coming Party Congress, including CPV Secretary-general Nong Duc Manh, National Assembly President Nguyen Phu Trong, Prime Minister Nguyen Tan Dung and the Chief of the Central Committee’s Department of Propaganda and Education, To Huy Rua. The Petition denounced Nong Duc Manh for authorising the bauxite mining project in the Central Highlands, engaging in nepotism to place his son, daughter and son-in-law in important posts, and following the CPV pro-China faction¹⁰⁸.

The CPV veterans accused National Assembly President Nguyen Phu Trong of fostering corruption amongst Party cadres whilst he was Head of the Communist Party in Hanoi, allowing Party members to buy expensive cars “*worth the price of 3,000 buffalos*”, supporting the Bauxite mining project and “*never promoting democracy, nor developing the knowledge and capacities of MPs during his Presidency of the National Assembly*”. Prime Minister Nguyen Tan Dung is accused of corruption and power abuse, as well as “*excessively supporting foreign investment. In our tiny country, he has allowed 100 golf courses to be built by illegally selling our farmers’ lands and rice-fields, making them homeless and unemployed*”. As for To Huy Rua, Chief of Propaganda, the signatories rejected him as insignificant, corrupt and ineffective, fostering the proliferating of lazy, arrogant, bureaucratic and corrupt Party cadres. “*For him, propaganda means painting a rosy picture of everything – anyone who speaks the truth is banned or branded as an “enemy”*”¹⁰⁹.

Another Petition to the Party leadership in 2010, signed by 38 prominent CPV veterans, vehemently denounces Nguyen Chi Vinh, Head of the military’s secret services, the “General Department No 2”, or GD2. Accusing him of chronic corruption involving millions of US dollars, speculating on real estate and using his post for gross personal enrichment, they call on the Party to exclude Nguyen Chi Vinh from all posts of responsibility at the coming Party Congress. This protest is also linked to the current tensions with China. Nguyen Chi Vinh is strongly pro-Chinese, and is one of the leading candidates ear-marked to replace CPV Secretary-general Nong Duc Manh at the 11th Congress. The extremely powerful “GD2”, described as a “*state within the state*”, is also pro-Chinese. The GD2 is known to use slander, disinformation, torture and even political assassination to overthrow opposition within the CPV and maintain its orthodox line.

Many political analysts have described the crack-down on democracy activists in early 2010 as a measure to stifle dissent before the 11th Party Congress. The Party cannot use the same tactics to silence these reputable veterans and war heroes. The coming months will show whether the 11th Congress will be an opportunity to heed the peoples’ appeals and take genuine steps towards democratic reform.

to Huynh Tan Phat, Do Muoi; **Le Mai Anh**, revolutionary veteran, CPV member for near 50 years; Nguyen Nam, revolutionary veteran, former member CPV Central Committee, former Central Committee member of the Workers Youth League; **Pham Van Hien**, Colonel, revolutionary veteran; **Tran Nguyen**, 86, revolutionary veteran, 60 years of CPV membership, 40 years in the army; **Nguyen Ba Bao**, researcher at the Ministry of Agriculture, CVP member for 45 years; **Nguyen Van Tuyen**, 85, Colonel in the People’s Army, revolutionary veteran, CPV member for 60 years; **Vu Thuan**, 85, revolutionary veteran, CPV member for 60 years, decorated with Independence Medal; Le Minh Chau, revolutionary veteran, CPV member for 50 years; **Nguyen Van Be**, 86, revolutionary veteran; **Nguyen Van Mau**, 90, Major General, revolutionary veteran, CPV member for almost 70 years.

108. In a foot-note beneath his signature, Major-general Le Huu Duc wrote of Nong Duc Manh: “His biggest fault is that of totally supporting the Chinese. Can’t he see that their plan is to completely swallow our nation? Can’t he see that in 4,000 years of our history in the struggle to build and defend our nation, every time a dynasty has pandered to the Chinese, it has ended up by losing the country?”

109. As this report was going to press, another Petition was sent to the Politburo signed by 31 high-ranking military officials and veterans supporting these demands and calling for democratic reforms (29 August 2010).

XIV. Recommendations

The FIDH and the Vietnam Committee on Human Rights call on the Vietnamese Government to take the following steps:

Regarding the ASEAN Intergovernmental Commission on Human Rights (AICHR) :

1. As Chair of the AICHR in 2010, Vietnam should do its utmost to enable the AICHR to become an effective, credible and accountable institution. Specifically, it should

- Integrate civil society proposals into its Rules of Procedure¹¹⁰ to ensure the institutionalisation of civil society participation at every level, from discussion to decision-making, and the creation of effective monitoring tools for promoting and protecting human rights. These proposals include the development of mechanisms to receive petitions or communications, conduct on-site observation and hold public hearings;
- Ensure that the drafting of the ASEAN Declaration on Human Rights be conducted by a body composed of independent human rights experts, in genuine consultation with civil society and other stakeholders, and in accordance with international human rights standards; and
- Make the work of the Commission accessible to the public by, inter alia, inviting representatives of civil society and victims of human rights violations to its regular sessions for genuine consultation.

Regarding the human rights situation in Vietnam:

- Immediately and unconditionally release human rights defenders and prisoners of conscience detained for the peaceful exercise of their political opinions or religious beliefs;
- Implement the recommendations of the UN Human Rights Committee¹¹¹ by bringing domestic legislation into line with international human rights law, especially by immediately repealing Ordinance 44 on “Regulating Administrative Violations” and repealing all legislation restricting the exercise of rights enshrined in the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration on Human Rights (UDHR);
- Urgently revise vaguely-defined “national security” provisions in the Criminal Code to bring them in line with the Johannesburg Principles and the norms proposed by the UN Special Rapporteur on Freedom of Expression; release all prisoners detained under national security charges simply for the peaceful expression of their opinions and beliefs;
- Cease arbitrary Police harassment, surveillance and censorship (on telephones, Internet, post, etc) of perceived critics and dissidents;

110. See SAPA Task force on ASEAN Human Rights, Civil Society Proposals for the Rules of Procedure for the AICHR, c/o Forum Asia, www.forum-asia.org

111. Concluding observations of the Human Rights Committee: Viet Nam », CCPR/CO/75/VNM, 26/07/2002.

- 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;
- Repeal all legislation that restricts the right to freedom of the press; authorise the publication of independent newspapers to provide a forum for dialogue and democratic debate;
- Cease legal sanctions and harassment against journalists and citizens expressing peaceful views through the printed media, Internet or radio;
- Re-establish the legitimate status of the Unified Buddhist Church of Vietnam and all other “non-recognised” religions; abolish all legislation that restricts the right to freedom of religion, belief and conscience;
- Amend the Labour Code to bring it into line with the ICCPR and all ILO requirements; guarantee the right to peaceful assembly and association and allow the establishment of independent trade unions;
- Increase the minimum wage to ensure a decent living wage for all workers, as imposed by Article 7 of the ICESCR, ratified by Vietnam;
- 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 prohibit forced evictions as a principle; only very limited exceptions should be admitted, in conformity with the ICESCR. Such legislation should notably include:
 - › the right of residents affected by the projects to be effectively and meaningfully consulted on the project involving their eviction and to be informed timely of the proposed eviction,
 - › effective legal remedies,
 - › legal aid for needy parties seeking redress from court,
 - › a clear prohibition of eviction and demolition as long as disputes between the residents and the real estate company are not settled,
 - › adequate compensation of evicted residents,
 - › sanctions in case of forced evictions carried out, without appropriate safeguards, by state agents or private persons or bodies;
- Conform with the UN Standard Minimum Rules on the Treatment of Prisoners; ensure that forced labour is abolished and put an end to torture and ill-treatment of prisoners; ratify and implement the UN Convention against torture;
- 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; in regard to the Land Law, take the necessary steps to remove any administrative obstacles that may prevent the issuance of joint land use certificates to husbands and wives¹¹².

- Establish a moratorium on the death penalty as a first step towards abolishment of the capital punishment under all circumstances; Meanwhile, review national security provisions in the Penal Code to ensure that no-one may incur the death sentence simply for expressing views opposing those of the Community Party, and more generally, abolish it for crimes that are not intentional crimes with lethal or other extremely grave consequences; lift the classification of “state secrets” on capital punishment and make ; public statistics on the number of death sentences pronounced and executed every year, differentiated by gender, age, charges etc, in order to allow for an informed public debate on the issue;

- › Ensure that all laws adopted under the “Legal System Development Strategy” comply with international human rights standards; and

- › 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, the UN Special Representative on Human Rights Defenders and the Special Rapporteur on Freedom of Religion;

- › Ratify the UN Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families;

- › Allow unhindered access to the country by international human rights NGOs.

The FIDH and the Vietnam Committee on Human Rights call on the international community to:

1. consistently raise concerns, both publicly and privately, about human rights violations in Vietnam at the highest levels and urge Vietnam to cease harassments, intimidation, arbitrary detention, house arrest and imprisonment of human rights defenders and religious or political critics;

2. ensure that funding for legal reforms is never used for the adoption of restrictive human rights legislation and withdraw funding whenever this occurs;

3. For countries which have human rights dialogues with Vietnam: make concrete benchmarks to measure progress and ensure that dialogues are not used as a screen to mask on-going violations. At the UPR in May 2009, Vietnam claimed that the existence of its dialogues with the USA, EU, Norway, Switzerland and Australia “proved its commitment to human rights”;

4. Ensure transparency and accountability in the use of bilateral development assistance given to Vietnam and that such foreign assistance is monitored and evaluated regularly and vigorously for their impact on the enjoyment of human rights;

112. Concluding Comments of the CEDAW, CEDAW/C/VNM/CO/6, 2 February 2007, §9

5. Insist that Vietnam respects its binding commitments as a state party to key international human rights instruments, and not accept reasons of cultural specificity to justify any derogation from the respect of internationally-recognised human rights.

The FIDH and the Vietnam Committee on Human Rights call on the other Member States of ASEAN to:

1. Encourage the government of Vietnam to take all necessary measures to effectively promote and protect the fundamental freedoms and rights of its people;
2. Use the AICHR and the ASEAN Commission for the Promotion and Protection of the Rights of Women and Children (ACWC) as the primary platforms to engage Vietnam in a genuine dialogue on the human rights violations occurring in the country; and
3. Seek, per the terms of reference of the AICHR, to obtain information from Vietnam on the promotion and protection of human rights in the country.

The FIDH and the Vietnam Committee on Human Rights call on companies operating in Vietnam to:

1. Ensure workers rights and international labour standards are fully respected and observed in all factories and offices they are operating or from which they are supplying, in Vietnam; and
2. Exercise due diligence including refrain from actions that would negatively affect the enjoyment of fundamental human rights by their workers.

Annex

List of 58 Political and Religious Prisoners

compiled by lawyer and former political prisoner **Nguyen Bac Truyen**

August 2010¹¹³

1. **Trương Văn Duy** (Section K2, Xuân Lộc Prison Camp, serving a life sentence commuted to 20 years, has spent 14 years in prison;
2. **Lê Văn Tính** (Section K2, Xuân Lộc, former member of Parliament in the Republic of (South) Vietnam, over 70 years old. Serving a 20-year sentence, has spent 14 years in prison. Previously spent 10 years in reeducation camp;
3. **Đỗ Văn Thái** (Section K2, Xuân Lộc Prison Camp, serving a 17-year sentence, has been detained for 11 years. Currently suffering from HIV/AIDS ;
4. **Nguyễn Hữu Cầu** (Section K2, Xuân Lộc Prison Camp, serving a life sentence, has spent 34 years in detention)
5. **Nguyễn Văn Hoa** (Section K2, Xuân Lộc Prison Camp, almost 70 years old, serving a 20-year sentence, has spent 18 years in prison)
6. **Nguyễn Văn Trại** (Section K2, Xuân Lộc Prison Camp , over 70 years old, serving a 15-year sentence, has spent 14 years in prison. He has had a stroke, suffers from an intestinal hemorrhage and is very weak)
7. **Nguyễn Long Hội** (Section K2, Xuân Lộc Prison Camp, approx. 70 years old, serving a life sentence commuted to 20 years. After serving 13 years of his sentence some 20 years ago, he escaped from the camp. In 2010, he was re-arrested and must now serve the remaining 7 years)
8. **Nguyễn Tuấn Nam** (Section K2, Xuân Lộc Prison Camp, 74 years old, serving a 19 year sentence, has been detained for 14 years. He recently suffered a stroke)
9. **Trần Văn Đức** (Section K2, Xuân Lộc Prison Camp, approx. 60 years old, condemned to 11 years in prison. He has almost completed his sentence)
10. **Nguyễn Xuân Nô** (Section K2, Xuân Lộc Prison Camp, condemned to eight years in prison, has served four years. This is his 2nd or 3rd prison term, each time for political offences)
11. **Trần Văn Thiêng** (Section K2, Xuân Lộc Prison Camp, 75 years old, serving a 20 year sentence, has spent 19.5 years in prison. Due for release in 6 months. He is gravely ill, suffering from inflammation of the prostate gland)

113. Several of those cases have been dealt with in the framework of the Observatory for the Protection of Human Rights Defenders, a joint programme of FIDH and OMCT.

12. **Bùi Đăng Thủy** (Section K2, Xuân Lộc Prison Camp, approx. 60 years old, serving an 18 year sentence, has spent 13 years in prison. He suffers from serious lung problems and is very weak)
13. **Nguyễn Văn Cảnh** (Section K2, Xuân Lộc Prison Camp, approx. 60 years old, serving a 13-year sentence, has spent five years in prison)
14. **Đỗ Thanh Nhân** (T Section K2, Xuân Lộc Prison Camp, 84 years old, serving a 20-year sentence, has spent 18 years in prison)
15. **Tô Văn Hồng** (Section K2, Xuân Lộc Prison Camp, under 60 years old, serving a 13-year sentence, has spent 11 years in prison)
16. **Danh Hưởng** (Section K2, Xuân Lộc Prison Camp, Cambodian, serving a 17-year sentence, has spent 11 years in prison. He has never received any visits)
17. **Phạm Xuân Thân** (Section K2, Xuân Lộc Prison Camp, serving a life sentence, has spent 14 years in prison)
18. **Nguyễn Hoàng Sơn** (Section K2, Xuân Lộc Prison Camp, serving a 12-year sentence, has spent 11 years in prison)
19. **Huỳnh Anh Tú** (Section K2, Xuân Lộc Prison Camp, 42 years old, serving a 13-year sentence, has spent 10 years in prison. His brother Trí is also in prison)
20. **Huỳnh Anh Trí** (Section K2, Xuân Lộc Prison Camp, 38 years old, serving a 13-year sentence, has spent 10 years in prison – he is Tu’s brother)
21. **Nguyễn Ngọc Phương** (Section K1, Xuân Lộc Prison Camp, 45 years old, was arrested as a teen-ager and grew up in prison. Currently serving a 12-year sentence, he has served 10 years in prison. He is a Vietnamese-Cambodian)
22. **Nguyễn Văn Trung** (Section K2, Xuân Lộc Prison Camp, over 60 years old, serving a 20-year sentence, has spent 18 years in prison)
23. **Huỳnh Anh** (Section K2, Xuân Lộc Prison Camp, serving an eight-year sentence, has spent six years in prison)
24. **Âu** (recently arrested, was sentenced at a trial in Lam Dong province)
25. **Kim** (recently arrested, was sentenced at a trial in Lam Dong province)
26. **Huyên** (recently arrested, was sentenced at a trial in Lam Dong province)
27. **Phượng** (recently arrested, was sentenced at a trial in Lam Dong province)
28. **Vũ Hùng** (condemned to 20 years in prison, served 11 years then escaped and was re-arrested)

29. **Đỗ Thanh Vân** (condemned to 20 years in prison, served 12 years. He is a Vietnamese from Cambodia or Thailand)
30. **Phạm Bá Hải** (condemned to five years in prison, has served four years)
31. **Huỳnh Bửu Châu** (Lieutenant in the armoured division of the Army of the Republic of (South) Vietnam, approx. 58 years old. He fought until the last days of the War, was wounded when a B40 shot at his tank. Spent several years in a re-education camp, suffered from beriberi and was released on health grounds. Escaped to Cambodia and joined resistance movements. Was arrested in 1999 and sentenced to 11 years in prison. Will be released on 9.9.2010. Recently received a visit from his son Long. Is in good health)
32. **Hồ Long Đức** (sentenced to 20 years in prison, has served 12 years)
33. **Văn Ngọc Hiếu** (sentenced to 20 years, has served 12. He has never received a visit during his whole time in detention. He was the only prisoner to escape from B34 Prison (Ministry of Public Security). He managed to reach the border, but fell ill and could go no further. Was arrested by the Border Police)
34. **Lê Kim Hùng** (sentenced to 20 years, has served 12 years)
35. **Trương Quốc Huy** (sentenced to 6 years in prison, has served 4, for activities such as participating in Paltalk forums)
36. **Trần Quốc Hiên** (sentenced to five years in prison, has served three years)
37. **Lê Nguyên Sang** (medical doctor, member of the Democratic People's Party, will be released tomorrow after serving a four-year sentence)
38. **Sơn Nguyễn Thanh Điên** (former US resident, has a US green card, returned to Vietnam for activism, sentenced to 17 years in prison, has served 12 years)
39. **Nguyễn Văn Phương** (Section K3, Xuan Loc, sentenced to 17 years in prison, has served 12. Given extra punishment for holding activities in the common criminals' section)
40. **Trần Hoàng Giang** (Section K3, Xuan Loc, sentenced to 16 years in prison, has served 12, also punished for holding activities in the common criminals' section. Was detained in solitary confinement for 13 months, 2 months in shackles day and night, 11 months in shackles only at night, with grossly insufficient rations. Prison warden Nguyen Trung Binh came to his cell and told him: "If you were a common criminal, I would let you out. But you're political, so I'll keep you until you die")
41. **Trương Minh Đức** (Section K4, Xuan Loc Prison Camp, journalist)
42. **Trần Tư** (Nam Ha Prison, sentenced to life imprisonment, has served 17 years, former US resident - he has a US green card)

43. **Võ Văn Thanh Liêm** (religious prisoner, Hoa Hao Buddhist, 60 years old, serving a six and a half year sentence)
44. **Võ Văn Thanh Long** (religious prisoner, Hoa Hao Buddhist, 39 tuổi, detained for five and a half years, has just been released)
45. **Võ Văn Điền** (religious prisoner, Hoa Hao Buddhist, 71 years old, sentenced to seven years in prison, has served five years)
46. **Nguyễn Thanh Phong** (Hoa Hao Buddhist, serving a six-year sentence)
47. **Võ Văn Bửu** (Hoa Hao Buddhist, serving a seven-year sentence)
48. **Mai Thị Dung** (Section K4, Hoa Hao Buddhist, serving an 11-year sentence. She is very ill. Mrs Dung is the wife of Võ Văn Bửu)
49. **Nguyễn Văn Thơ** (Section K4, Xuân Lộc, Hoa Hao Buddhist, 72 years old, serving a seven-year sentence)
50. **Đương Thị Tròn** (Section K4, Hoa Hao Buddhist, 72 years old, the wife of Nguyen Van Thơ)
51. **Lê Văn Sóc** (Section K4, Hoa Hao Buddhist, arrested 2006, serving a six-year sentence),
52. **Tô Văn Mạnh** (Hoa Hao Buddhist, arrested 2006, serving a six-year sentence)
53. **Nguyễn Văn Thùy** (Hoa Hao Buddhist, arrested 2006, serving a five-year sentence)
54. **Đoàn Văn Duyên** (Protestant Pastor from Dong Nai province, serving a four-year sentence)
55. **Trần Văn Thiệp** (from An Giang province, arrested in 2007, serving a six-year sentence)
56. **Nguyễn Văn Hải** (Blogger Điều Cày, sentenced to 2.5 years in prison for alleged tax evasion, although everyone knows he is a political prisoner)
57. **Trương Minh Nguyệt** (from Long An, 64 years old, sentenced to seven years in prison, arrested in 2007.
58. **Nguyễn Văn Ngọc** (51 years old, arrested in 2007, serving a five-year sentence).

16 August 2010

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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.

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The **Vietnam Committee on Human Rights (VCHR)** is the international section of **Quê Me: Action for Democracy in Vietnam**, a non-profit organisation founded in Paris in 1975 with sections in Europe, USA, Canada and Asia. Its aims are to monitor human rights, mobilise support for victims of human rights abuses and work for the respect of democratic freedoms and human rights in Vietnam. It also publishes books and reports in Vietnamese that are circulated underground in Vietnam and amongst the Vietnamese Diaspora to promote 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 President of the VCHR.



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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,

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