

Committee on Foreign Affairs
Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations

Hearing of April 11, 2013: Highlighting Vietnamese Government Human Rights Violations in
Advance of the U.S.-Vietnam Dialogue

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First, let me thank the committee for inviting me to testify today. As all of us are aware, it is often difficult to draw attention to Vietnam's human rights situation, and the committee should be commended for its repeated efforts to do so.

Since this subcommittee held a hearing on Vietnam last year, the rights record has worsened. Numbers are clear indicators, so there really isn't any doubt about it. The fact is that a growing number of dissidents—including religious leaders, bloggers, and politically active people—are being convicted and sent to jail for violations of Vietnam's authoritarian penal code, which prohibits public criticism of the government and the communist party.

In 2012, at least 40 people are known to have been convicted and sentenced to prison in such trials, an increase from 2011, which itself was an increase from 2010.

Alarming, another 40 people were convicted in political trials in just the first six weeks of 2013, matching the total for 2012. To repeat: in the first six weeks of 2013, as many people have been convicted in political trials as in the whole of 2012.

These trials have themselves led to other arrests. During protests at some of these hearings, other activists have been detained, and some of those arrested have reported beatings and even sexual assault. One blogger wrote an account of being detained temporarily after a well-known trial in late December 2012, being beaten, and then forced to undergo a cavity search, in front of several police officers—sheer humiliation of the grossest form.

There has also been an official campaign in recent months to suppress critical comments about the process, currently underway, of amending Vietnam's constitution. This appears to have been a factor in the arrest on December 27, 2012 of human rights-defending lawyer Le Quoc Quan and in official harassment and intimidation during February and March 2013 against several other critics.

Thuggish harassment also seems to be on the rise. Just this week, at almost midnight on Monday night, unidentified men threw a bucket of rotten rice water, fish-heads, and intestines into the house of the writer Huynh Ngoc Tuan, who was the 2012 recipient of Human Rights Watch's Hellman Hammett grant, for writers who have been victims of political persecution. And on April 8 and April 9, mere days ago, bloggers Bui Thi Minh Hang and Nguyen Chi Duc were attacked by thugs on the street; police who were nearby reportedly failed to intervene—which affirms the common sense hypothesis that the unknown attackers are, in reality, government actors, either paid goons or police out of uniform.

While the trend-lines show a worsening situation, it should still be noted that none of this is new. Vietnam has unjustly imprisoned political prisoners for decades. Several of its current

political prisoners have been in detention, also for decades. And in some instances these prisoners have been denied proper medical care for deteriorating health conditions.

One of these is 66-year-old Nguyen Huu Cau, first detained in 1975, then rearrested in 1982 and held ever since. His health has reportedly deteriorated recently. One suggestion we have made to the Vietnamese government is that, even if they disagree with human rights groups about reversing their crackdowns, and repealing their draconian laws, they at least agree with us that very elderly or very sick prisoners need not suffer in detention when, whatever the merits of their supposed crimes, they can pose no threat—to the government, the party, or the people of Vietnam.

There are, of course, many other human rights issues to discuss with respect to Vietnam. Religious freedom. Administrative detention and forced labor for alleged drug users. Internet blocking and filtering, the fact that more websites are being blocked on Vietnam ISPs. Each of these issues is discussed in Human Right Watch's annual World Report 2013, the Vietnam Chapter, which I have included as an appendix to my testimony and which I submit for the record now.

I also submit a recent statement from Human Rights Watch on the occasion of the US-Vietnam human rights dialogue. As that statement makes clear, the focus now really needs to be on the Vietnamese government. This is something on which we and everyone in the U.S. government agrees, both in the State Department, at the White House, and on this subcommittee: that the spotlight is now on Vietnam, to give some kind of sign that it will address these issues, and not ignore them. And in this context, it is important that everyone stand together and insist that they do so, and explain to them that the U.S. relationship with Vietnam—which as a basic matter has improved in the past year years—will not continue to improve unless Vietnam's government undertakes serious reforms to address the human rights problems we've spoken about today.

I would be happy to take questions from the committee on the issues discussed in those documents or in my testimony today.

Thank you.

[Exhibits attached.]

Exhibits:

Human Rights Watch

World Report 2103 (excerpt)

Vietnam Chapter

(current as of late 2012)

The Vietnam government systematically suppresses freedom of expression, association, and peaceful assembly, and persecutes those who question government policies, expose official corruption, or call for democratic alternatives to one-party rule. Police harass and intimidate activists and their family members. Authorities arbitrarily arrest activists, hold them incommunicado for long periods without access to legal counsel or family visits, subject them to torture, and prosecute them in politically pliant courts that mete out long prison sentences for violating vaguely worded national security laws.

In 2012, police used excessive force in response to public protests over evictions, confiscation of land, and police brutality.

Land confiscation continues to be a flashpoint issue, with local farmers and villagers facing unjust confiscation of their lands by government officials and private sector projects. Those who resist face abuses from local authorities.

Following a series of arrests of well-connected tycoons and managers of state-owned companies, the Party Central Committee held its sixth plenum in October. During the session, factions led by Prime Minister Nguyen Tan Dung and by Communist Party Secretary General Nguyen Phu Trong and President Truong Tan Sang vied for control of the state's political and economic machinery in a still ongoing power struggle. However, neither faction has voiced or otherwise demonstrated a commitment to protect human rights.

Vietnam has stated that it will seek a seat on the United Nations Human Rights Council (HRC) for the 2014-2016 term.

Freedom of Expression, Assembly, and Information

On the surface, private expression, public journalism, and even political speech in Vietnam show signs of enhanced freedom. This trend was especially evident in a surge of criticism of Prime Minister Nguyen Tan Dung during the course of the 6th Plenum of the Party Central Committee in October, and a high-profile call for his resignation issued from the floor of the

National Assembly in November. However, there continues to be a subcurrent of state-sponsored repression and persecution of individuals whose speech crosses boundaries and addresses sensitive issues such as criticizing the state's foreign policies in regards to China or questioning the monopoly power of the communist party.

The government does not allow independent or privately owned media outlets to operate, and exerts strict control over radio and TV stations, and publications. Criminal penalties apply to those who disseminate materials deemed to oppose the government, threaten national security, reveal state secrets, or promote "reactionary" ideas. The government blocks access to politically sensitive websites and requires internet cafe owners to monitor and store information about users' online activities.

In April, the government revealed a draft Decree on Management, Provision, and Use of Internet Services and Information on the Network. As drafted, the decree will outlaw posting internet content that opposes the Vietnam government, national security, public order, customs and traditions, national unity, offends the reputation of an individual or group, or transgresses a number of other ill-defined areas of concern. The decree would also require domestic and foreign companies to filter whatever content the government finds objectionable. The National Assembly had not yet begun considering the draft at this writing.

In September, Prime Minister Nguyen Tan Dung ordered the Ministry of Public Security to target blogs and websites not approved by the authorities, and to punish those who create them.

On August 5, authorities forcibly dispersed peaceful marchers in Hanoi protesting Chinese foreign policies on sovereignty over the Paracels and Spratly islands. Authorities temporarily detained more than 20 protesters for disrupting public order. Yet on the same day, authorities did not interfere with over 100 people on bicycles participating in Vietnam's first public demonstration for lesbian, gay, bisexual, and transgender (LGBT) rights.

Repression of Rights Activists

During 2012, the Vietnam government used vaguely defined articles in the penal code that criminalize exercise of civil and political rights to send at least 33 activists to prison and arrest at least another 34 political and religious advocates. At least 12 other rights campaigners detained in 2011 were still being held, awaiting trial at this writing.

Rights activists continue to suffer from intrusive police surveillance, interrogation, monetary fines, and restrictions on domestic and international travel. Police use temporary house arrest

to prevent them from participating in protests or attending trials of other bloggers and activists. In a number of instances in 2012, unidentified thugs have assaulted dissidents and police have done little or nothing to investigate.

In a prominent, internationally monitored trial that lasted only several hours on September 24, a court convicted the country's three most prominent dissident bloggers—Nguyen Van Hai (also known as Dieu Cay), Ta Phong Tan, and Phan Thanh Hai (also known as Anhsag)—for violating article 88 of the penal code (conducting propaganda against the state). The court sentenced them to 12, 10, and 4 years in prison respectively. All are founding members of the Club for Free Journalists. United States President Barack Obama, US Secretary of State Hillary Clinton, and European Union High Representative Catherine Ashton have all raised concerns about their cases on different occasions during the year.

Authorities also widely used article 88 to silence other bloggers and rights activists. In October, musicians Tran Vu Anh Binh and Vo Minh Tri (also known as Viet Khang) were sentenced to a total of 10 years in prison for writing songs critical of the regime. In August, bloggers Dinh Dang Dinh and Le Thanh Tung were sentenced to six and five years in prison respectively. In June and July, labor rights activist Phan Ngoc Tuan in Ninh Thuan province and land rights activists Nguyen Kim Nhan, Dinh Van Nhung, and Do Van Hoa in Bac Giang province were sentenced to a total of eighteen-and-a-half years in prison for conducting propaganda against the state for storing and distributing pro-democracy documents and leaflets. In March and May, five Catholic activists—Vo Thi Thu Thuy, Nguyen Van Thanh, Dau Van Duong, Tran Huu Duc, and Chu Manh Son—were jailed for a total of 17 years and 9 months for distributing pro-democracy leaflets, reduced to the total of 16 years and 3 months on appeal.

In March, the People's Court of Go Dau district in Tay Ninh province sentenced rights activists Ho Thi Hue and Nguyen Bich Thuy to three years each in prison for participating in protests against land confiscation in Tay Ninh province. Their sentences were reduced to two years each on appeal in August. In April and June, land right activists Nguyen Van Tu in Can Tho and Nguyen Van Tuan in Ba Ria-Vung Tau were sentenced to two and a half years and four years respectively in prison for “abusing rights to democracy and freedom to infringe upon the interests of the State.” Both were accused of helping local people file petitions against land confiscation. Nguyen Van Tuan's sentence was reduced to two years on appeal in August.

Freedom of Religion

The government restricts religious freedom through legislation, registration requirements, and harassing and intimidating unsanctioned religious groups, including independent Protestant

home churches, and individuals and congregations of Hoa Hao Buddhists, Cao Dai, the Unified Buddhist Church of Vietnam, and Falun Gong.

Religious groups must register with the government and conduct their operations under the direction of government-controlled management boards. The authorities do generally allow government-affiliated churches and pagodas to hold worship services. However, local authorities routinely harass and intimidate religious communities, especially unregistered ones, when they take up politically disfavored issues including land rights and freedom of expression; when they are were popular among groups that the government considers to be potentially disaffected, such as ethnic minorities with a history of resistance against central rule and assimilation policies; or when they simply refuse to conform to state-sanctioned religious organization.

In February and March, Phu Yen province police arrested at least 18 members of a Buddhism-based religious group that refers to itself as the Council for Public Law and Affairs of Bia Mountain. They face charges under penal code article 79 for “activities aiming to overthrow the people’s administration.” At this writing, the 18 members of the group were in police detention in Phu Yen province, awaiting trial.

In Gia Lai province in March, Pastor Nguyen Cong Chinh was sentenced to 11 years in prison for “undermining national unity” in violation of article 87 of the penal code. The same month, eight ethnic Hmong Protestant activists from Muong Nhe district in Dien Bien were each given sentences of between two to two-and-a-half years in jail for “disrupting security” after they participated in a mass protest in Muong Nhe in May 2011.

In April and June, three other Protestant activists, Kpuil Mel, Kpuil Lẽ, and Nay Y Nga, were sentenced to a total of 22 years in prison for transgressing article 87. All three were accused of practicing Dega Protestantism, which is outlawed by the state.

In May, three ethnic Montagnard activists, Runh, Jonh, and Byuk, were arrested in Gia Lai for being affiliated with the unregistered Ha Mon Catholic group and charged with “undermining national unity” according to article 87.

Police in An Giang prevented members of the unregistered Pure Hoa Hao Buddhist Association from gathering to commemorate key events, including the anniversary of the disappearance of the group’s founder Huynh Phu So. Hoa Hao activist Bui Van Tham was sentenced to 30 months in prison for “resisting officials in the performance of official duties.”

In June and July, local authorities sought to prevent Catholic priests from performing masses at the private homes of Catholic followers in Con Cuong and Quy Chau districts in Nghe An province. In both areas, local Catholics have filed multiple requests to authorities to form and register new parishes without success.

Criminal Justice System

Police brutality, including torture in detention and fatal beatings, continued to be reported in all regions of the country in 2012. At least 15 people died in police custody in the first 9 months of the year, according to state-controlled media.

Vietnamese courts lack independence since they are firmly controlled by the government and the Vietnam Communist party, and trials of political and religious dissidents fail to meet international fair trial standards. Police intimidate, and in some cases detain, family members and friends who try to attend trials or publicly display dissenting views during court proceedings.

Vietnamese law continues to authorize arbitrary “administrative detention” without trial. Under Ordinance 44 (2002) and Decree 76 (2003) persons deemed threats to national security or public order can be placed under house arrest, involuntarily committed to mental health institutions, or detained at “re-education” centers.

In June, the National Assembly passed the Law on Handling of Administrative Violations that will finally halt the practice of sending sex workers to administrative detention in the so-called “05 centers” where they often suffer abuse. Human rights observers welcome this rare example of a concrete and positive institutional reform.

The policy of detention of drug users, however, remained unchanged. The mainstay of Vietnam’s approach to drug treatment remains detention in government centers where detainees are subjected to so-called “labor therapy.” Some 123 centers across the country hold around 40,000 people, including children as young as 12 years old. Their detention is not subject to any form of due process or judicial oversight and routinely lasts as long as four years. Infringement of center rules—including the work requirement—is punished by beatings with truncheons, shocks with electrical batons, and imprisonment in disciplinary rooms where detainees are deprived of food and water. Former detainees report that authorities forced them to work in cashew processing and other forms of agricultural production, including potato or coffee farming, construction work, and garment manufacturing and other forms of manufacturing.

Key International Actors

Vietnam's complicated relationship with China plays a key role in domestic and foreign affairs. Hanoi pledges friendship with China, but domestically must respond to criticism that it fails to counter China's aggressive behavior in the disputed Spratly and Paracel Islands.

Internationally, the government has increased cooperation with the US, the EU, Russia, India, Japan, and neighboring Association of Southeast Asian Nations (ASEAN) to counter-weight to China's growing influence.

The EU and Vietnam launched negotiations on a comprehensive free trade agreement in June. Two rounds of the EU-Vietnam human rights dialogue took place in January and October.

The relationship between Vietnam and the US continues to grow. The US is Vietnam's largest export market, and the June visit of US Defense Secretary Leon Panetta symbolized the growing ties between the two countries' militaries. The US and Vietnam are also negotiating a Trans-Pacific Partnership free trade agreement. However, during a July visit to Vietnam, Secretary of State Hillary Clinton publicly raised serious concerns about Vietnam's poor human rights record, and US policy makers indicated that failure to improve human rights could impose limits on the closeness of the relationship between the two governments.

Starting in 2013, Le Luong Minh, Vietnam's deputy foreign minister, will start his five-year term as secretary-general of ASEAN, greatly increasing Vietnam's influence in this regional bloc.

For Immediate Release

Vietnam: Rights Dialogue Should Produce Concrete Steps *Time for Government to Begin Delivering on Human Rights*

(Washington, DC, April 10, 2013) – The Vietnamese government should use the opportunity of the upcoming US-Vietnam Human Rights Dialogue to release political prisoners and make commitments to end the persecution of bloggers, land rights activists, and other peaceful critics, Human Rights Watch said today. The 17th US-Vietnam Human Rights dialogue will take place in Hanoi beginning on April 12, 2013.

“The Vietnamese government has produced an avalanche of political show trials as it tries to keep a lid on growing dissent,” said [Brad Adams](#), Asia director of Human Rights Watch. “The US should use this opportunity to make it clear that Vietnam needs to engage in serious reforms to improve the rights situation, or there will be severe consequences, including damage to relations with the US.”

According to the United States, the purpose of human rights dialogues is to produce concrete results to narrow the differences between international human rights standards and human rights policies and practices in [Vietnam](#). Human Rights Watch said that the US should make clear that if Vietnam wants to be considered a responsible international partner, it should make strong advances in meeting its international human rights obligations immediately. Vietnam is bidding for a seat on the UN Human Rights Council and will inevitably face greater scrutiny of its record at the Council’s Universal Periodic Review process.

Human Rights Watch pointed to the large and growing number of criminal convictions of peaceful protesters by Vietnam. In 2012, at least 40 people are known to have been convicted and sentenced to prison in trials that did not meet international due process and fair trials standards. Alarming, at least 40 more people were convicted in political trials in just the first six weeks of 2013.

“Last year was a terrible year for dissidents, who were imprisoned in large numbers,” Adams said. “Yet just as many activists were imprisoned after political trials in the first two months of 2013 than in the entire year of 2012. The Vietnamese government needs to realize it cannot solve the country’s huge social and political problems by throwing all its critics in jail.”

In recent months there has been an official campaign to suppress critical comments about the process of amending Vietnam’s constitution. This campaign appears to have been a factor in the arrest on December 27, 2012, of human rights-defending lawyer Le Quoc Quan and in official harassment and intimidation during February and March 2013 against critics like the journalist Nguyen Dac Kien, and Buddhist activist Le Cong Cau. Anonymous thugs threw rotten fish heads and fish intestines at the house of 2012 Hellman/Hammett prize winner, writer Huynh Ngoc Tuan. On April 8 and April 9, bloggers Bui Thi Minh Hang and Nguyen Chi Duc were attacked while police failed to intervene.

Vietnam has held some political prisoners for decades. In some instances these prisoners have been denied proper medical care for deteriorating health conditions. One of these is 66-year-old Nguyen Huu Cau, first detained in 1975, then rearrested in 1982 and held ever since. His health has reportedly deteriorated recently.

As a first urgent and humanitarian step, Human Rights Watch urged Vietnam to grant medical parole to all political prisoners and detainees who, like Nguyen Huu Cau, have serious health problems, followed by expeditious independent and impartial review of their cases to ascertain those who should be unconditionally and permanently released because they have been held solely for peaceful exercise of their fundamental human rights.

Those who appear to be in that category include: Nguyen Huu Cau, Tran Huynh Duy Thuc, Ho Duc Hoa, Dang Xuan Dieu, Le Van Son, Nguyen Van Hai, Mai Thi Dung, Nguyen Cong Chinh, Pham Thi Phuong, Ta Phong Tan, Nguyen Hoang Quoc Hung, Nguyen Van Ly, Nguyen Dang Minh Man, Tran Thi Thuy, Phung Lam, Do Thi Minh Hanh, Doan Huy Chuong, Cu Huy Ha Vu, Nguyen Tien Trung, Pham Van Thong, Nguyen Ngoc Cuong, Dinh Dang Dinh, Nguyen Xuan Nghia, Tran Vu Anh Binh, Nguyen Kim Nhan, Ho Thi Bich Khuong, Le Thanh Tung, Phan Ngoc Tuan, Vi Duc Hoi, Nguyen Van Lia, Vo Minh Tri, Le Quoc Quan – and many others.

Human Rights Watch called on the Vietnamese government to use the current process of amending the constitution to initiate an urgent program of legal reform aimed at:

- Amending or repealing legal provisions that effectively criminalize peaceful dissent, freedom of expression, and labor organizing;
- Removing all legal hindrances to independent religious organizations to freely conduct peaceful religious activities;
- Dropping plans for implementing the current “Decree on the Management, Provision, and Use of Internet Services and Information on the Network” and removing filtering, surveillance, and other restrictions on internet usage;
- Abolishing all legal justifications for forced labor and detention without trial for so-called “labor therapy” in cases of drug use or other purposes; and
- Dropping all provisions that make possible land confiscation without due process, just compensation, and independent and impartial means of review.

“For far too long, Vietnam’s government has been given an easy ride on human rights, with the result that the Vietnamese people have suffered increasing abuses,” said Adams. “The roadmap to reform is obvious, but it requires the Vietnamese Communist Party to tolerate dissent and accept the right of people to advocate different views.

For more Human Rights Watch reporting on Vietnam, please visit:

<http://www.hrw.org/asia/vietnam>