



**Amnesty International Testimony
Human Rights in Vietnam**

**Before the
Committee on Foreign Affairs
U.S. House of Representatives**

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Thank you Chair and distinguished members of this committee. Amnesty International is pleased to testify at this important hearing.

This hearing is taking place on the eve of the Vietnamese President's visit to the White House and before President Trump's visit Vietnam in November to attend the annual APEC Conference.

These two opportunities are important openings for President Trump to raise concerns about human rights issues in Vietnam and to urge the Vietnamese government to release prisoners of conscience. We urge President Trump not to miss these opportunities.

The human rights situation in Vietnam has been of concern to Amnesty International for years. We have published reports, news releases, and Urgent Actions to highlight our concerns. We also testified last year before this Committee after former President Obama's visit to Vietnam.

Main Human Rights Concerns:

- Restrictions on freedom of expression, assembly and association;
- The continuing imprisonment of political prisoners;
- The use of national security legislation and the criminal code to suppress criticism of the government, including in relation to the Internet;
- The application of the death penalty.
- The continuation of repressive practices in some ethnic minority areas – notably the Central Highlands;
- The state of the independence of judiciary;
- Restrictions on religious freedoms – continued intolerance of non-state sanctioned religions and denominations;

During 2016 severe restrictions on the rights to freedom of expression, of association and of peaceful assembly continued. The media and the judiciary, as well as political and religious institutions, remained under state control. Prisoners of conscience were tortured and otherwise ill-treated, and subjected to unfair trials. Physical attacks against human rights defenders continued, and prominent activists were subjected to daily surveillance and harassment. Peaceful dissidents and government critics were arrested and convicted on national security charges. Demonstrations were repressed, with participants and organizers arrested and tortured. The death penalty was retained.

Background

The five-year leadership change took place in January at the congress of the Communist Party of Viet Nam. In May, a general election for the 500 seats in the National Assembly was contested by 900 Communist Party members nominated by central or local authorities and 11 independent candidates. Over 100 non-party candidates who attempted to register, including prominent government critics such as Nguyễn Quang A, were disqualified on tenuous administrative grounds. Some were subject to harassment and intimidation.

The implementation of key new laws, scheduled for July, was postponed due to flaws in the amended Penal Code. They included the Criminal Procedure Code, the Law on the Organization of Criminal Investigation Agencies, the Law on the Implementation of Custody and Temporary Detention, and the amended Penal Code itself.

Repression of dissent

Peaceful criticism of government policies continued to be silenced through judicial and extra-legal means. There was extensive surveillance and harassment of activists, including those who demonstrated against the Formosa ecological disaster which

affected the lives of an estimated 270,000 people. Attacks against human rights defenders were commonplace.¹

The authorities continued to use vaguely worded legislation to convict peaceful activists under the national security section of the 1999 Penal Code, in particular: Article 258 “abusing democratic freedoms to infringe upon the interests of the state, the legitimate rights and interests of organizations and/or citizens”; Article 88 “spreading propaganda against the Socialist Republic of Viet Nam”; and Article 79 “carrying out activities aimed at overthrowing the people’s administration”.

In an eight-day period in March, seven activists and government critics were convicted and sentenced to imprisonment for the peaceful expression of their views. They included Nguyễn Hữu Vinh, founder of the popular blog site Anh Ba Sàm, and his assistant Nguyễn Thị Minh Thúy who were convicted under Article 258 and given five- and three-year prison sentences respectively.² They had spent nearly two years in pre-trial detention.

Prominent human rights lawyer Nguyễn Văn Đài and his assistant Lê Thu Hà remained in incommunicado detention following their arrest on charges under Article 88 in December 2015.³

In October, well-known activist Nguyễn Ngọc Như Quỳnh, known as blogger Mẹ Năm (Mother Mushroom), was arrested on charges under Article 88 in connection with her blog postings criticizing the government.⁴ The Article carries a three- to 20-year prison sentence.

Routine beatings of human rights defenders and their relatives continued. In April, Trần Thị Hồng, wife of prisoner of conscience Pastor Nguyễn Công Chính, was arrested and severely beaten in custody soon after she met with a US delegation visiting Viet Nam.⁵

Freedom of assembly

Large peaceful demonstrations over the Formosa disaster were frequent. Weekly demonstrations in urban centers around the country in April and May resulted in mass arrests and attacks against participants by police and individuals in plain clothes believed to be police or working under police orders. Many of those detained were tortured or otherwise ill-treated, including with beatings and the use of electric shocks.⁶ Demonstrations continued throughout the year, with those in provinces affected by the Formosa disaster gathering momentum. There were reports that 30,000 people demonstrated in August in Vinh City, Nghệ An province.

Land disputes

In July, a demonstration of around 400 ethnic minority Ede villagers in Buôn Ma Thuột, Đắk Lắk province protesting against the sale of 100 hectares of the community’s

ancestral land to a private company was violently repressed by security forces; at least seven demonstrators were arrested and held in incommunicado detention.⁷

In August, land activist Cấn Thị Thêu was convicted under Article 245 of “causing public disorder” by a court in the capital Ha Noi and sentenced to 20 months’ imprisonment.⁸ She was accused of inciting protests against reclamation of land in Hà Đông district, Ha Noi, by posting photographs online.

Torture and other ill-treatment

Torture and other ill-treatment, including incommunicado detention, prolonged solitary confinement, beatings, withholding of medical treatment, and punitive transfers between facilities were practiced on prisoners of conscience throughout the country.⁹ At least 88 prisoners of conscience were held in harsh conditions after unfair trials, some of whom were subjected to beatings, prolonged solitary confinement, deprivation of medical treatment and electric shocks. They included bloggers, labor and land rights activists, political activists, religious followers, members of ethnic groups and advocates for human rights and social justice.

Land rights activist Bùi Thị Minh Hằng, and Hòa Hảo Buddhist Trần Thị Thúy continued to be denied adequate medical treatment since 2015; Catholic activist Đặng Xuân Diệu was held in solitary confinement for prolonged periods and tortured; and Trần Huỳnh Duy Thức had been transferred between several prisons since 2009, apparently as a punishment or to intimidate him.

Refugees and asylum-seekers

In April and May, in two separate cases, eight asylum-seekers among groups intercepted en route to Australia and forcibly returned to Viet Nam were sentenced to between two and four years’ imprisonment under Article 275 of the Penal Code for “organizing and/or coercing other persons to flee abroad or to stay abroad illegally”.¹⁰

Right to an adequate standard of living

An ecological disaster in early April killed huge numbers of fish stocks along the coast of Nghệ An, Hà Tĩnh, Quảng Bình, Quảng Trị and Thừa Thiên-Huế provinces, affecting the livelihoods of 270,000 people. After a two-month investigation, the authorities confirmed allegations by the public that a steel plant owned by the Taiwanese Formosa Plastics Group had caused toxic waste discharges. At the end of June, Formosa publicly acknowledged responsibility and announced that it would provide compensation of US\$500 million. In October, a court in Hà Tĩnh rejected 506 cases filed by those affected. The plaintiffs were calling for increased compensation in damages for the impact on their livelihoods.

Death penalty: Death sentences continued to be imposed, including for drug-related offences. Official statistics remained classified as a state secret. Death sentences were reported in the media but no information was available about executions.

Religious Freedom:

Viet Nam's draft Law on Belief and Religion

Viet Nam's draft Law on Belief and Religion undermines basic guarantees of the right to freedom of religion or belief by imposing difficult registration requirements and facilitating excessive state interference in the activities of religious organizations.. Amnesty was one of the signatories in an October 2016 Open Letter from civil society organizations which called for the draft Law to be revised, in consultation with religious community representatives, including those of non-recognized religious communities, and experts in international human rights law, to ensure that the law protects the right to freedom of religion or belief in line with article 18 of the International Covenant on Civil and Political Rights.

The National Assembly ratified the Law in November 2016. Among the concerns groups outlined in the open letter were:

1. The definition of a religion should be made consistent with Article 18 of the International Covenant on Civil and Political Rights (ICCPR). In the current draft, a religious organization has been defined as “a group of people ... which is recognized by the government” (Article 2.13). This leaves members of religious organizations who cannot or choose not to register with the authorities in a legal limbo, with no legal safeguards for conducting religious activities.
2. Registration with the government should not be made a pre-requisite for the exercise of freedom of religion or belief. The onerous and complex registration process requires approval from the authorities for religious activities, operations and status as an organization. The guarantees outlined in Article 18 of the ICCPR are independent of and cannot be conditioned on any domestic process of notification, authorization, recognition or registration.
3. The law must not allow officials to arbitrarily interfere in the internal affairs of religious organizations. Provisions in the law allow the authorities to interfere excessively in the internal decisions, appointments, training, teachings and programs of religious organizations. Limitations on the manifestation of freedom of religion or belief must never exceed in either purpose or scope those permitted in article 18(3) of the ICCPR. As the UN Special Rapporteur on Freedom of Religion or Belief, Dr. Heiner Bielefeldt, said after his visit to Vietnam in 2014, “...registration should be an offer by the State but not a compulsory legal requirement.”
4. Ambiguous and potentially discriminatory language should be removed. The draft law contains ambiguous language regarding “good traditional cultural values” (Article 10.1)

and “sowing division” (Article 5.4), that could be used to discriminate against ethnic and indigenous minorities, independent groups and those whose religion or belief is seen as “foreign” (Article 2.12). 5. Provisions should be made to establish legal channels and mechanisms for people to file complaints, and have those complaints independently investigated and acted on, in cases of alleged violations of the right to freedom of religion or belief.

Other concerns:

- Vietnamese officials continue to force Montagnard Christians to sign pledges renouncing their religion, and these minorities have been fleeing to other South East Asian countries seeking asylum.
- In July 2014, the United Nations Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt visited Vietnam on an official mission. During this visit, police intimidated and put many lowland dissidents and religious activists under house arrest so they could not meet him. Fearing for the safety of other activists, Bielefeldt cut short his planned visits to three locations, including the Central Highland provinces of Gia Lai and Kon Tum. He concluded that the “tight control that the Government exercises on religious communities” means that the “autonomy and activities of independent religious or belief communities, that is, unrecognized communities, remain restricted and unsafe, with the rights to freedom of religion or belief of such communities grossly violated.”
- In February of 2017, hundreds of peaceful marchers were attacked by police as they marched to file complaints against Formosa Plastics, a company responsible for an ecological disaster in Viet Nam. Most of the marchers were Catholic. In addition to this, Father Đặng Hữu Nam, Nguyễn Văn Tráng and Paulus Lê Văn Sơn have been involved in organizing activities calling for transparency and accountability in relation to the disaster, including compensation for those affected. Father Đặng Hữu Nam, a Catholic priest has been helping to organize mass protests.

The three men have also faced severe harassment which has intensified after their activities linked to the ecological catastrophe: Father Nam has been subjected to surveillance, death threats, arrests and beatings by security police and individuals in plain clothes.

- In January of 2017, 3 unrelated Human Rights defenders were held incommunicado, including Nguyễn Văn Oai, a former prisoner of conscience and Catholic social activist, was arrested on his way home from a fishing trip in Hoàng Mai town, central Viet Nam late on 19 January 2017. His family were informed the following day that he was being accused of resisting officials on duty under Article 257 of the Penal Code. Nguyễn Văn Oai is currently serving a

three year probation period after he was released in August 2015 following a four year prison sentence. He is being held at Nghệ An provincial prison, and faces a possible seven year sentence if convicted. He is in weak health after his previous imprisonment.

- Cấn Thị Thêu, a well-known land rights activist, was tried and convicted by a court in Hà Nội in September 2016 and sentenced to 20 months' imprisonment on charges of "disturbing public order" under Article 245 of the 1999 Penal Code.
- Human rights defender Nguyễn Ngọc Như Quỳnh, known as blogger Mẹ Nấm (Mother Mushroom) was arrested in October 2016 and has been charged with "conducting propaganda" against the state under Article 88 of Viet Nam's Penal Code. She is at risk of torture and ill-treatment. It is not known where she is currently detained.

Two examples of Prisoners of Conscience:

The Most Venerable Thich Quang Do, head of the banned Unified Buddhist Church of Viet Nam (UBCV), is a leading advocate of religious freedom, human rights and democracy. He is confined to the Thanh Minh Zen monastery in Ho Chi Minh City, as a prisoner of conscience. He has protested peacefully against repressive government policies in Viet Nam since the 1950s, and has spent almost three decades either in prison, detained without trial or under house arrest in "internal exile," far from his home. The UBCV was founded in 1964, but has been banned since 1975. Its members have come under varying degrees of repression for their peaceful activities, including imprisonment for terms of eight years or more, arbitrary detention and house arrest. Thich Quang Do opposed the establishment of the state-controlled Viet Nam Buddhist Church in 1981, which was created to lessen the influence of the UBCV. He resisted government efforts to force the UBCV to join this body. As a result, he was arrested in February 1982 and kept under house arrest for 10 years in internal exile. In February 2001, Thich Quang Do wrote an eight-point plan for peaceful democratic change, *Appeal for Democracy in Viet Nam*, addressed to senior members of the government. The appeal received support both inside Viet Nam, where it was circulated secretly, and from some Members of the European Parliament, and US Congress, after it was smuggled overseas. This prompted the authorities to arrest him again, and in June 2001 he was sentenced to two years' administrative detention. He was held incommunicado for two years at Thanh Minh Zen monastery, and released on 27 June 2003. He was arrested again in October 2003, while returning to Ho Chi Minh City with other Buddhist monks from a UBCV meeting in another province. Security officials told him that he had been placed in administrative detention for an indefinite period. He was not told why he had been arrested, or whether he had been charged with any offence. He is still confined to the Thanh Minh Zen monastery. In May 2005 the UN Working Group on Arbitrary Detention decided that his "deprivation of liberty" was arbitrary, in contravention of Article 18 of the International Covenant on Civil and Political Rights (ICCPR), to which Viet Nam is a state party.

Tran Huynh Duy Thuc, a successful entrepreneur, was sentenced to 16 years' imprisonment followed by five years' house arrest on 20 January 2010 for blogging about political and economic issues in Viet Nam. He declared during his trial that he was tortured while in detention to force him into making a confession. Tran Huynh Duy Thuc was initially accused of "theft of telephone lines" before being prosecuted under Article 88 of the Criminal Code for "conducting propaganda against the State". However, he was later charged with "attempting to overthrow the people's administration" under Article 79 of Viet Nam's Criminal Code through his establishment of the "Chan research group" and his connection with so-called reactionary individuals abroad. Tran Huynh Duy Thuc was transferred to Xuan Moc prison, Ba Ria – Vung Tau province in early July 2013, along with four other dissident prisoners. It is not known why he was moved and his family only found out when they went to visit him at the detention facility where he was previously held. He is currently in a cell on his own in a section of the prison for political prisoners. In May 2013, Tran Huynh Duy Thuc was held for 10 days in solitary confinement in a small, dark and dirty cell.

Recommendations:

President Trump should:

- 1) Personally urge President of Vietnam to release all prisoners of conscience immediately and unconditionally.
- 2) Urge that the draft Law on Belief and Religion be revised, in consultation with religious community representatives, including those of non-recognized religious communities, and experts in international human rights law, to ensure that the law protects the right to freedom of religion or belief in line with article 18 of the International Covenant on Civil and Political Rights.
- 3) Urge the government to stop the practice of forced renunciation of religion.
- 4) Publicly call for the respect for and protection of human rights during his press interactions after the meeting, including during the joint press conference.
- 5) Meet with the families of prisoners of conscience during his visit to Vietnam

Thank you for inviting Amnesty International to Testify.

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