



VIETNAM: HUMAN RIGHTS SITUATION REMAINS CONCERNING

*EEAS Consultation with Civil Society on the EU-Vietnam Human Rights Dialogue
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The **Vietnam Committee on Human Rights (VCHR)** acknowledges that the annual EU-Vietnam Human Rights Dialogue is an important policy tool to engage Vietnam on serious human rights concerns. Nevertheless, VCHR is concerned by Vietnam's lack of sincere commitment to the dialogue. We recall that in December 2015, just one day after the EU-Vietnam Human Rights Dialogue, the Vietnamese authorities arrested human rights defender **Nguyễn Văn Đài** as he was preparing to meet EU officials in Hanoi. Moreover, we believe that the dialogue can only be effective if it is part of an overall strategy that includes political pressure and public scrutiny at every level. We urge the EU to raise human rights concerns in all aspects of its relationship with Vietnam, including trade relations, and ensure that the dialogue contains specific, measurable, and time-bound objectives.

2016: A black year for human rights in Vietnam

VCHR is deeply concerned by the grave escalation of human rights abuses in Vietnam in 2016. While police violence and harassment of civil society activists has been a growing trend in recent years, 2016 marked a new height in blatant human rights abuses in many areas. The new leadership formed after the Communist Party's 12th Congress in January 2016 declared zero tolerance of criticism or opposing views, and new President Trần Đại Quang, former Minister of Public Security, announced that his government's priority would be to combat "*sabotage*" and "*wrong and distorted allegations from hostile and reactionary forces*" and mobilize the military, police, and public security forces in the fight against dissent. Civil society sources estimate that **at least 20 civil society activists were imprisoned in 2016, with seven activists condemned to a total of over 22 years in prison in the month of March alone.** Hundreds of dissidents and human rights defenders were assaulted and harassed by police officers or plain clothed security agents.

Abuses in 2016 included: police intimidation and harassment of human rights defenders and activists; police brutality against journalists; systematic suppression of peaceful protests against land seizures or environmental degradation, such as the Formosa pollution disaster; politically-motivated, arbitrary arrests and imprisonment; unfair trials; and ill-treatment of detainees. Vietnam pursued this crackdown in total disregard of its binding international human rights commitments and despite strong protests from the EU and other partners.

1. Violations of the right to freedom of expression

In 2016, independent online journalists and bloggers faced harassments, physical assaults, and harsh prison sentences for the expression of their views. On 23 March 2016, one of

Vietnam's most influential bloggers, **Nguyễn Hữu Vinh** (aka Anh Ba Sam) and his colleague **Nguyễn Thị Minh Thúy** were condemned to five and three years in prison respectively in an unfair trial at the Supreme People's Court in Hanoi. Arrested in May 2014, they were accused of *"publishing online articles with bad contents and misleading information to lower the prestige and create public distrust of government offices, social organizations, and citizens"* and charged under Article 258 ('abusing democratic freedoms to harm the interests of the State'). Their conviction was upheld on appeal on 22 September 2016. The appeal trial was held behind closed doors. Vinh's wife, Lê Thị Minh Hà, was not allowed to visit him during his detention.

Another prominent blogger and activist, Ms. **Nguyễn Ngọc Như Quỳnh**, known as Mẹ Nấm [Mother Mushroom], was arrested on 10 October 2016 in Nha Trang, Khánh Hòa Province. She was charged under Article 88 of the Criminal Code ('spreading propaganda against the Socialist Republic of Vietnam'), which carries prison sentences ranging from three to 20 years. Như Quỳnh had been repeatedly harassed, interrogated and placed in custody since 2009 for her campaign for Internet freedom and human rights and her participation in anti-China demonstrations and protests against the Formosa chemical spill that devastated Vietnam's central coast in April 2016. According to the official newspaper 'Cong An' [Public Security], *"Quỳnh took advantage of the right to freedom of speech and democracy to set up the blog "Me Nam" and a Facebook's page for writing, disseminating and storing documents distorting the Party and State, sowing suspicions and eroding people's trust in the administration. Quỳnh's acts were serious as she infringed national security and national interests"*. She is currently detained in the Sông Lô Prison in Nha Trang. On 2 November 2016, blogger **Hồ Văn Hải**, a medical doctor, was arrested in Ho Chi Minh City. He had posted many articles on his Facebook on the Formosa pollution disaster. Dr. Hải was also charged under Article 88 of the Criminal Code. Other bloggers convicted in 2016 under Article 88 include **Nguyễn Hữu Quốc Duy** and his cousin **Nguyễn Hữu Thiên An**, sentenced to three and two years in prison respectively for posting comments on Facebook.

Also charged under Article 88 of the Criminal Code are lawyer and human rights defender **Nguyễn Văn Đài** and his assistant Ms. **Lê Thu Hà**, arrested on 16 December 2015. They remain in detention in Hanoi for their peaceful advocacy of human rights. Nguyễn Văn Đài, who has devoted years to human rights education, was brutally beaten by thugs shortly before his arrest after he organized a workshop on Vietnam's Constitution. In October 2016, 73 Parliamentarians from 14 countries all over the world signed a letter that called for their release.

Assaults on state-controlled media journalists

Not only independent bloggers and journalists, but also reporters from state-controlled media were the target of intimidation and assaults by police simply for reporting the news. On 23 September, police in Hanoi beat **Trần Quang Thế**, a journalist with the Tuổi Trẻ Daily newspaper, and smashed his camera as he was taking photos for an article. On 6 November 2016, plainclothes police brutally attacked **Đặng Văn Nghị**, 35, and **Nguyễn Anh Tuấn**, 33, reporters for the Thái Nguyên Radio and TV, and beat them with batons because they refused to stop taking photos as they researched illegal sand excavations in Cây Hồng area, Thái Nguyên Province. On the same day, **Nguyễn Tùng** from VTC TV and **Phạm Hiểu** of 'Pháp luật' [The Law newspaper] were attacked as they reported on conditions in a slaughter house in the Hanoi area. Nguyễn Tùng had to be hospitalized after the beating. In September 2016,

Đỗ Thanh Hải, a reporter for VTC News in Đắk Lắk province was beaten and his camera smashed by local police as he was filming land confiscation in Cư Pô Village. Local officials later said police threw him to the ground to “*protect him from attacks by local people*”.

Article 79 on ‘subversion’ invoked to detain peaceful activists: On 6 November 2016, authorities arrested pro-democracy activists **Lưu Văn Vịnh and Nguyễn Văn Đức Độ** in Ho Chi Minh City on charges of subversion under Article 79 of the Criminal Code (‘carrying out activities aimed at overthrowing the people’s administration’). Article 79, which makes no distinction between violent acts, such as terrorism, and the peaceful exercise of freedom of expression, carries penalties of up to life imprisonment or the death penalty, and has been strongly denounced by the international community. The men are held in the Detention Center in Phan Đăng Lưu street, Ho Chi Minh City.

Other civil society activists convicted in 2016 include: 73-year-old anti-corruption campaigner **Đinh Tất Thắng** (seven months); blogger **Nguyễn Đình Ngọc**, aka Nguyễn Ngọc Già (four years, later reduced to three); land rights activists **Ngô thị Minh Ước, Nguyễn Thị Bé Hải and Nguyễn Thị Trí** (four years, three years, and three years respectively) and land rights activist **Cần Thị Thêu** (20 months). Ms. Cần Thị Thêu has appealed against her sentence. The appeal trial will be held on 30 November 2016 in Hanoi.

2. Police brutality against human rights defenders and government critics

As activism grows in Vietnam, dissidents are increasingly becoming the target of harassments and assaults by police and hired thugs. Scores of dissidents have been brutally beaten by plainclothes security agents, local militia or thugs who acted with total impunity, often under the eyes of the police.

In March 2016, police assaulted many dissidents as they stood outside the People’s Court in Hanoi during the trial of Nguyễn Hữu Vinh. In July 2016, blogger **Tố Oanh** and his wife were pushed off their motorbike in Hanoi by unidentified men. Oanh was knocked unconscious and sustained injuries to his head and face. Father **Đặng Hữu Nam**, a Catholic priest, was the target of death threats and beatings by security police because he helped 506 fishermen to file criminal complaints requesting compensation following the Formosa pollution disaster. Former political prisoners Paulus **Lê Văn Sơn**, a Catholic blogger, and **Pastor Nguyễn Trung Tôn** (in Thanh Hóa Province) were both subjected to surveillance, harassments, and public denunciations for acts of peaceful dissent. In September, former political prisoner **Nguyễn Bắc Truyển** and his wife **Kim Phương** were assaulted by a group of six men who beat the couple with their fists and motorcycle helmets. On 20 September 2016, several activists were beaten by local police as they tried to attend the trial of Cần Thị Thêu at the People’s Court of Đống Đa District in Hanoi, including Mrs. Thêu’s son **Trinh Ba Tu**, and bloggers **Phùng Thế Dũng** and **Nam Phương**. Human rights defender **Trần Thúy Nga** was also the victim of several attacks in 2016, in which her children were also targeted.

3. Restrictions on the right to freedom of peaceful assembly

In March 2016, the Ministry of Public Security issued Circular 13/2016/TT-BCA on ‘**Regulations on the duties of the People’s Security forces in protecting Court hearings**’, which came into force on 24 April 2016. The Circular empowers police to disperse public

gatherings outside courts while they are in session. If people refuse, police may “*deploy forces to prevent the disturbance of public order, isolate and arrest opposition elements, instigators and leaders of the disturbance.*” Given law enforcement officials’ broad interpretation of “*disturbing public order*”, Circular 13 virtually gives security forces *carte blanche* to suppress peaceful demonstrations and arrest human rights defenders who protest unfair trials or express solidarity with fellow activists.

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

These anti-demonstration regulations were widely invoked in 2016 to quell nationwide protests against the industrial pollution caused by the Taiwanese steel conglomerate Formosa, which killed millions of fish and decimated the fishing industry on Vietnam’s central coast. This ecological disaster sparked off massive demonstrations in the country’s largest. Vietnamese authorities violently repressed these demonstrations, used police-hired thugs, and arresting hundreds of protesters. On July 7, security forces in the central coastal province of Quang Binh suppressed an anti-Formosa protest of around 2,000 local residents, beating and injuring a number of demonstrators. Several anti-China demonstrations in Hanoi were also violently quelled by police. Vietnam’s National Assembly President, Ms. Nguyễn Thị Kim Ngân, who took office in July, criticized the demonstrators for inciting unrest and said they had “*done nothing for their country*”.

Demonstrations by ‘Victims of Injustice’ – a rural protest movement of farmers who have been campaigning to seek compensation and justice for state confiscation of their lands – were also violently suppressed in 2016. Protesters were given harsh prison sentences. In July, **eight** farmers, including **Nguyễn Văn Long**, were sentenced to terms of up to four years in prison by a court in Hưng Yên Province for “*causing social disorder*” because they opposed the seizure of their rice fields in Văn Giang District in October 2014 to build a giant residential project (EcoPark) without the provision of adequate compensation.

4. Restrictions on the right to freedom of religion or belief

Although religious freedom is guaranteed in the Constitution, abuses of the right to freedom of religion or belief remain widespread in Vietnam. VCHR is deeply concerned about the new **Law on Belief and Religion**, which was adopted by the National Assembly on 18 November. Although the most recent version (1st September 2016) of the draft law contains some improvements, it continues to place unacceptable restrictions on the right to freedom of religion or belief and other human rights. This and the previous versions of the law inherit from previous rules and regulations this emphasis on government control and management of religious affairs, which is contrary to the spirit and principle of the right to freedom of religion or belief. Rather than protecting religious freedom, the new law would criminalize

many aspects of religious activity and reinforce state control and management of religions in Vietnam.

Provisions in the draft law allow the authorities to interfere excessively in the internal decisions of religious organizations, including appointments, training, teachings, and programmes. In addition, religious organizations are required to undergo an onerous and complex registration process in order to receive approval from the authorities to conduct religious activities and obtain official status as an organization. This is a violation of international standards of religious freedom, which cannot be contingent on any process of notification, authorization, recognition or registration. As UN Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt said after his visit to Vietnam in 2014, “...**registration should be an offer by the State but not a compulsory legal requirement.**”

Religious groups that cannot or choose not to register with the authorities are the target of systematic discrimination. The situation of the **Unified Buddhist Church of Vietnam (UBCV)**, Vietnam’s oldest and largest religious organization is of particular concern. Since being banned in 1981, following the creation of the state-sponsored Vietnam Buddhist Church, its leaders and members have been regularly subjected to detention, intimidation, and harassment.

Members of UBCV Representative Boards in the provinces have been subjected to police interrogations, intimidation, public “denunciation sessions,” and expulsion of monks and nuns from their pagodas. In many cases, police have hired local thugs to vandalize UBCV property and assault monks and nuns. Lay-followers have also suffered threats and harassments. Local authorities and security police punish Buddhists who frequent UBCV pagodas by refusing to deliver vital administrative papers, making them lose their jobs or expelling their children from school or.

The UBCV Representative Board in **Danang (Giác Minh Pagoda)** and its Superior monk **Thích Thanh Quang**, 79, have been subjected to continuous harassments by the local authorities. Plainclothes local militia have repeatedly assaulted him. In May 2016, police prevented him from travelling to Ho Chi Minh City to meet a delegation of Australian diplomats scheduled to visit UBCV leader Thich Quang Do. For the past four years, the local People’s Committee has prohibited him from celebrating Buddhist festivals such as Tết (Lunar New Year) or Vesak (Buddha’s Birth) and intimidated Buddhists who try to attend the events. Followers wishing to bring offerings and food to Thich Thanh Quang and his monks go to the pagoda at dawn and lay their offerings at the pagoda’s gate to avoid police reprisals.

The **Buddhist Youth Movement (BYM)**, an educational movement affiliated to the UBCV, is also a target of repression. BYM leader **Lê Công Cầu** suffered frequent acts of harassment in 2016. Police accused him of posting articles on the Internet calling for the legalization of the UBCV and warned him that he could be arrested and prosecuted anytime. He is currently under police investigation and has been subjected to numerous “working sessions” (interrogations). His communications are constantly monitored. In January 2016, he was placed under house arrest during the Vietnamese Communist Party Conference in Hanoi. In May 2016, he was prevented from travelling to Ho Chi Minh City to meet an Australian diplomatic delegation, and authorities in Hue attempted to expel him from his home without any explanation.

UBCV leader **Thich Quang Do**, 88, remains under house arrest without charge at the Thanh Minh Zen Monastery in Ho Chi Minh City. He has spent almost 30 years in detention for his peaceful advocacy of religious freedom and human rights. He is currently under constant police surveillance, denied citizenship rights, and prevented from freely communicating with the outside world.

5. Upholding international human rights standards: the crucial issue of Legal Reforms

The VCHR is deeply concerned about Vietnam's **lack of progress in bringing domestic legislation into line with its commitment under international human rights treaties to which it is a state party**. Vietnam has acceded to the UN International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) since 1982. Human rights are formally guaranteed by the Constitution. Yet it restricts their exercise by invoking domestic legislation that make the enjoyment of human rights contingent on compliance with the interests and policy of the ruling communist party. Since the one-Party state has extensive control over the executive, legislative, and judiciary powers, these provisions gravely limit, if not completely nullify, the exercise of human rights. Over the past 12 months, several new laws were adopted to further increase state suppression of the exercise of human rights.

Amended Criminal Code

In November 2015, Vietnam adopted amendments to the **Criminal Code**, which were scheduled to come into effect on 1st July 2016. Whereas we mentioned this in our submission to the dialogue in December 2015, we underscore our concerns once again because the adoption of the Criminal Code has been delayed because of extensive errors in the text. **We urge the European Union to press Vietnam to take this opportunity to revise the “national security” provisions in the Criminal Code to bring them into line with the ICCPR.**

Indeed, despite strong recommendations by the international community at Vietnam's two UPR cycles and on other occasions, the government did not abrogate or revise the vaguely-worded “national security crimes” in the amended Criminal Code. In fact, they added one new national security crime of ‘*terrorism against the state*’ (Article 113 in the new code) which carries the death penalty. Ambiguously-worded offenses such as ‘*undermining national solidarity, sowing divisions between religious and non-religious people*’, (Article 87), ‘*abusing democratic freedoms to encroach on the interests of the state*’ (Article 258) remain in place.

In some cases, the amended code imposes even harsher restrictions on the right to freedom of opinion and expression. For example, Article 88 on ‘*conducting propaganda against the Socialist Republic of Vietnam*’ will be changed to ‘*causing, storing and distributing information and documents against the State of the Socialist Republic of Vietnam*,’ which is open to a wider interpretation.

Moreover, new provisions sanctioning the “*preparation of the offense*” have been added to several crimes, such as Article 79 on “activities aimed at overthrowing the people's

administration” (which carries the death penalty) and Articles 88 and 87. “Preparation” (*“chuẩn bị”* in Vietnamese) could mean anything from a thought process to the physical preparations to commit an act. These new provisions give the authorities greater leeway to punish perceived critics and stifle dissent. This broad interpretation of national security enables Vietnam to declare in international fora that *“there are no political prisoners in Vietnam, only people who violate the law”*.

Amended Press Law

The amended **Press Law**, adopted in April 2016 and coming into force on 1 January 2017, places increased restrictions on the right to freedom of opinion and expression and contains no provisions for authorizing the publication of independent newspapers in Vietnam. The law bans the diffusion of *“confidential information”* and *“state secrets.”* The lack of a clear definition of these terms enables the authorities to apply this classification to virtually any document. The law continues to criminalize a wide range of activities which are left solely to the appreciation of the state, such as *“propagating depraved lifestyles”, “violating the country’s traditions and values”, or “distorting history, denying revolutionary achievements or offending the nation or its heroes.”* It increases the number of *“prohibited acts”* from four to 13. These include publishing *“distorted information about the Socialist Republic of Vietnam”* perceived to *“defame the people’s government”, “run contrary to the country’s international unity policies”, “cause alarm amongst the people”* or *“sow division between the people and State authorities.”*

Law on Access to Information

A new Law on Access to Information, adopted in April 2016, is inconsistent with international standards of transparency and accountability. This law concerns the right to know, or the right of individuals to access information held by public authorities. The law stipulates a number of grounds for restricting access to information which are unacceptable under international law. These include *“state secrets”*, which are not defined, or vague terms such as *“social order and ethics”, “State security”, “interests of the nation, people and State”,* or *“propaganda”*. Moreover, the public will only have access to information produced after the law comes into force, and only information declassified by government. There is no timeframe provided for the declassification of information.

6. Recommendations

VCHR urges the EU to recommend Vietnam commit to take the following steps at the upcoming Human Rights Dialogue in Brussels:

- Immediately and unconditionally release all persons detained for the peaceful expression of their opinions or beliefs. We are particularly concerned about the situation of UBCV **Patriarch Thích Quảng Độ, blogger Nguyễn Hữu Vinh, activist Nguyễn Ngọc Như Quỳnh and human rights lawyer Nguyễn Văn Đài ;**
- Cease harassment, assaults and arbitrary arrests of bloggers, civil society activists, religious followers, and human rights defenders;

- Delay the adoption of the amended Criminal Code in order to draft new amendments such as the abrogation or revision of vaguely-worded provisions on “national security” that are routinely used to arbitrarily arrest and imprison peaceful dissidents;
- Revise the Law on Religion and Belief to bring it into line with Article 18 of the International Covenant on Civil and Political Rights;
- Guarantee the right of all religious communities, whether they are registered with the state or not, to freely conduct religious activities and operate independently; cease harassment and discrimination against members of non-recognized religious bodies;
- Amend all provisions in domestic law that restrict the right to freedom of religion or belief, the right to freedom of opinion and expression, the right to freedom of association, and the right to freedom of peaceful assembly and that are inconsistent with the ICCPR, to which Vietnam is a state party;
- Enact legislation on the right to freedom of peaceful assembly and the right to freedom of association in line with the provisions of the ICCPR; authorize the establishment of free trade unions and independent civil society organizations that may operate outside the framework of the Vietnamese Communist Party and the Vietnam Fatherland Front;
- Authorize the emergence of independent, privately-run media; cease state censorship on information; and cease surveillance, filtering, and other restrictions on the use of the Internet.