

# **Amnesty International Testimony**

## **Human Rights in Vietnam**

**“S.3495 – A Bill to authorize the extension of non-discriminatory treatment (normal trade relations treatment) to the products of Vietnam”**

**Before the  
Committee on Finance  
United States Senate**



**Presented by  
T. Kumar**

**Advocacy Director for Asia & the Pacific  
Amnesty International USA**

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

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 the situation in Vietnam.

Amnesty International is totally independent of any government, political ideology or religious creed. We work for the promotion and protection of human rights laid down in international covenants. We consider these rights to be universal, indivisible, and interdependent.

While we focus on human rights we do not take a position on a number of issues including linking economic sanctions to human rights. Therefore, we do not take a position on Permanent Normal Trade Relations to Vietnam.

2006 has been described as a critical year for Vietnam. The WTO negotiations, the trade relations status, the APEC Summit in Hanoi in November and President Bush's first ever visit to the country are some of the key features. Also manoeuvring the country through this pivotal period is a brand new government, nominated in late June following the 10<sup>th</sup> Party Congress.

## **Current Status of human rights**

### **Key concerns:**

- Restrictions on freedom of expression, assembly and association.
- The use of national security legislation and the criminal code to suppress criticism of the government. Much of this vaguely worded 'catch-all' legislation contravenes international law and standards to which Viet Nam is a state party.
- The continuing imprisonment of political prisoners.
- The use of severely repressive practices in some ethnic minority areas – notably the Central Highlands.
- Independence of judiciary.
- Restrictions on religious freedoms – continued intolerance of non-state sanctioned religions and denominations
- The application of the death penalty

### **Deterioration in the following area:**

- The internet is an area which appears to be worsening with arrests and secretive procedures.
- Amnesty International is concerned about how the new internet regulations will be used.

### **Improvements in the following areas:**

- Political restrictions appear to have eased ahead of the upcoming APEC summit in November and the WTO negotiations.
- The recent openness in the debate about corruption scandal involving the Ministry of Transport. This scandal led to the first ever appearances for questioning by ministers before the National Assembly, which has investigated the allegations.
- For the first time, the assembly raised a more independent voice vis-à-vis the Communist Party. Parts of the hearings were broadcast on radio and television.

## **Media**

Media are State controlled, censored, and chiefly used as propaganda tools. However, the above mentioned corruption scandal has resulted in an increase in investigative reporting; the media played a role in placing the scandal in the public domain.

## **Independence of Judiciary**

Politically related trials in past years have routinely concluded in a matter of hours, without due process and with heavy jail sentences handed down to those convicted. Accused are regularly held in incommunicado detention, and consequently family members are often refused access to prisoners. Vaguely worded “national security” and spying charges are often used for people who have never advocated use of violence, and thereby criminalize peaceful dissent.

The 2004 criminal procedure code introduced increased rights for defendants, and a new law on legal aid was adopted by the National Assembly last June. Despite this and the fact that legal aid is spreading through the National Legal Aid Agency, access to lawyers remains very limited, as does awareness about free of charge legal aid for poor and vulnerable. Access to lawyers is still distant.

## **Crackdown on Internet users**

On July 1, 2006 a new decree on sanctions for “administrative violations in the culture and information sector” entered into force. Instead of promoting the use of the Internet as a tool for development and exchange, the decree is one in a string of laws, decrees, and decisions that stifles access to and use of the Internet.

Some worrying elements of the decree:

- Introduces further control and prior permission of use of the Internet and circulation of e-mails by the State.
- Introduces fines for journalists for publishing articles with anonymous sources, or refusing interviewees to read prior to publishing.
- Enables authorities to punish offences that are not in the Criminal Code
- Imposes fines of up to 30 million dong (2,000 US dollars), for disseminating “harmful” information by media. Local authorities and police appear to have discretion to define “harmful information”.
- Imposes fines for revealing “Party or State secrets” (up to 30 million dongs/2,000 dollars)

Following the 2002/2003 crackdown on the Internet, the following Prisoners of Conscience remain behind bars:

**Dr Pham Hong Son**, a 37-year-old businessman and qualified medical doctor, remains in detention since his arrest on March 27, 2002 after translating an article entitled “What is Democracy?” from the US embassy in Vietnam’s website, sending it to friends and party officials. He also wrote articles and shared information from the Internet with friends and government officials, and

signed a petition to the authorities in August 2002 calling for peaceful political reform.

Following his arrest, Dr. Pham Hong Son was held in pre-trial detention in excess of the legally allowed six months before being brought to trial on June 18, 2003 on charges relating to espionage. He was sentenced to 13 years' imprisonment plus three years' house arrest on release at the end of the closed trial lasting only half a day. His sentence was reduced to five years' imprisonment on appeal in August 2003.

Dr Pham Hong Son's health has deteriorated during his imprisonment; he has been reported as suffering from an inguinal hernia and to be coughing blood, for which he has not received or been given access to appropriate medical care. In September 2004 he was moved from Ba Sao prison camp in Nam Ha province where other political prisoners were detained, to a remote prison camp of Yen Dinh, Thanh Hoa province, making family visits difficult. Dr Pham Hong Son is married with two children.

**Nguyen Vu Binh**, a 37-year-old journalist and writer, has been in detention since his arrest in September 2002. He worked as a journalist at the official Communist Party of Vietnam Journal and the Communist Review (*Tap Chi Cong San*) for almost ten years, before resigning to attempt to form an independent political party. His request for official permission received no response.

He was also one of several dissidents who attempted to form an Anti-Corruption Association in 2001. After submitting a written testimony on the human rights situation to the US Congress in July 2002 he was briefly detained.

A Directive issued by the Communist Party of Vietnam in early 2003<sup>1</sup> referred to Nguyen Vu Binh as having already been arrested and prosecuted for spying activities. However, at that time he had not been officially charged and continued to be detained until he was brought to trial on December 31, 2003, more than a year after his arrest. Nguyen Vu Binh was sentenced to seven years' imprisonment, plus three years' house arrest on release for "spying" under Article 80 of the Vietnam Criminal Code. Amongst the charges against him were that he "communicated via emails" with "reactionary" organizations overseas and disseminated information about human rights in Vietnam. The sentence was upheld on appeal on May 5, 2004.

Nguyen Vu Binh is held at Ba Sao prison camp in northern Nam Ha province. He is reported to be disciplined because he has refused to sign a "confession": He is held in isolation without being regularly allowed to leave his cell for a few hours each day, while other prisoners are permitted. He is married with one child.

### **Recent Internet related arrests**

Three brothers - Truong Quoc Huy, Truong Quoc Tuan, and Truong Quoc Nghia and Pham Ngoc Anh Dao, also known as Lisa Pham were arrested

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<sup>1</sup> *Socialist Republic of Viet Nam: Two official Directives relating to anti-government activities*, AI Index: ASA 41/018/2003, June 2003.

from a house in Ho Chi Minh City on October 19, 2005. They were arrested for taking part in an Internet chat room entitled "The voice of people in Viet Nam and Abroad", hosted by PalTalk website, in which opinions about democracy and issues about Vietnam are exchanged. Truong Quoc Nghia was subsequently released, while the others were reportedly charged with attempting to overthrow the government under Article 79 "*Carrying out activities aimed at overthrowing the people's administration*" of the Penal Code.

There has been no public information about where Truong Quoc Huy, Truong Quoc Tuan and Pham Ngoc Anh Dao may be detained, or whether they have been formally charged or tried. To the knowledge of Amnesty International there have been no court hearings of their case and the organization is concerned that they have been held in pre-trial detention for a period exceeding the legal maximum of six months.

Beside the arrests of these three, there have also been unconfirmed reports of an arrest on March 11, 2006 at an Internet café of another man who participated in a Paltalk discussion. The Vietnamese authorities have denied this arrest.

#### **Status of released political prisoners**

- Nguyen Khac Toan: A former soldier, math teacher and businessman, Nguyen Khac Toan was arrested in January 2002 for passing information by the Internet to overseas Vietnamese activist groups about farmers' protests in Ha Noi. He also reportedly helped farmers draft petitions voicing disapproval over official corruption and land confiscation. He was tried on December 20, 2002 and sentenced to 12 years' imprisonment, plus three years house arrest on release for spying under Article 80 of the Criminal Code.

After serving one third of his prison sentence, Nguyen Khac Toan was unexpectedly released under a prisoner amnesty to mark the Lunar New Year in January 2006. Despite being told not to give media interviews following his release, Nguyen Khac Toan told international media that he had been required to undertake not to carry out any anti-government activities, to meet with other dissidents or to give newspaper and radio interviews.

He remains under police surveillance. In late February 2006 he and another political dissident, Do Nam Hai, were arrested at an Internet cafe in Ha Noi and taken for interrogation to the municipal police station. Toan was allegedly charged with violating conditions of his house arrest (after his release from prison he was required to serve three years of house arrest). Do Nam Hai was reportedly charged with violating Decree 55, which prohibits people from accessing banned Internet websites. Amnesty International continues to consider Nguyen Khac Toan a prisoner of conscience and calls for all restrictions in place during his house arrest to be lifted immediately.

- Dr Nguyen Dan Que, 64, who has spent some 20 out of the last 28 years in prison for advocating for human rights and political reform, was last imprisoned in March 2003. He was released in February 2005 after having served 23 months in prison of a 30 month sentence. Since his release he has remained under surveillance and has occasionally been harassed,

most recently on June 8, when a group of public security agents and police reportedly entered and searched his home – without showing a warrant. Dr Que has not been allowed to have access to the Internet until only two months ago, in May 2006. His telephone line remains cut off.

### **Statements by released political prisoners**

Since his release, **Nguyen Khac Toan** has briefly described the conditions of detention at Ba Sao prison camp, Nam Ha province, stating that 241 political prisoners were detained in just one Section of the Ba Sao Prison. Some 225 of these are reportedly ethnic Christian Montagnards arrested in connection with the 2001 and 2004 demonstrations. Others are political prisoners serving 20-30 year sentences.

Another list, compiled by UBCV monk **Thich Thien Minh**, who was released in February 2005 after 26 years in re-education camp, contains the names of 66 religious and political prisoners, many of them old and sick, in Z30A Camp in Xuan Loc, southern Dong Nai province. Several of these prisoners have been detained for decades and are obliged to perform hard labour despite their poor health.

### **Montagnards**

The situation of Montagnards in the Central Highlands remains a cause for concern, illustrated for example by the continued trickle of asylum seekers making their way across the border into Cambodia.

Vietnamese officials reportedly continue to violate the right to religious freedom in parts of the Central Highlands, pressuring Christians who belong to independent house churches to renounce their religion or to pledge loyalty to the state sanctioned ECVN. The right to freedom of movement is restricted for those involved in religious activities that are not endorsed by the government.

Also, peaceful dissent, certain religious activity, and attempts to seek refuge in Cambodia continue to be deemed criminal, while the Vietnamese government accuses Montagnard activists to use the issue of religion as a cover for separatist political activities.

Over 250 highlanders have been imprisoned since 2001. At least eighty people were arrested in 2005 alone and around 140 people were sentenced to prison terms during the same year. They were charged in connection with the 2001 and April 2004 protests about land ownership, religious freedom, and for assisting people to leave for Cambodia.

### **Status of returned Montagnard refugees**

The January 2005 MoU between Vietnam, Cambodia and UNHCR appears to have been violated by Vietnamese authorities, who have detained, questioned,

and in some instances severely mistreated people who sought sanctuary in Cambodian refugee camps but subsequently have returned to Vietnam.

Amnesty International has raised concerns about the MoU, which the organization believes contains gaps that diminish the protection of the asylum seekers' fundamental human rights, particularly those who are returned to Vietnam.

The Vietnamese authorities are obliged under the agreement not to punish returnees for illegally having left the country, but this does not preclude punishment for religious or political beliefs. It has been reported that police and other authority representatives have ill-treated – placing under surveillance or house arrest, detained, interrogated and possibly even tortured – some of those who returned.

UNHCR has undertaken several brief monitoring visits to returnees and returned with positive findings. However, Amnesty International remains concerned that such short and highly visible monitoring visits are carried out in coordination with the authorities that UNHCR is meant to monitor. In light of the fear on the part of returnees and people related to the hundreds of people detained or imprisoned, as well as credible reports about ill-treatment, Amnesty International repeats calls for the authorities to allow unrestricted access to assess the human rights situation in the Central Highlands for independent and international human rights monitors, such as the UN Special Rapporteurs on Torture, on Religious Intolerance, and the UN Working Group on Arbitrary Detention.

The lack of such access and the continued crackdown against particularly Christian Montagnards violate the basic human rights that Vietnam is obligated to uphold as a state party to the International Covenant on Civil and Political Rights.

## **Religious persecution**

Not only are Montagnard Christians repressed by the state; religious practice remains under the strict control of the authorities, despite the releases in 2005 of several religious dissidents and the issuing of instructions intended to facilitate official recognition of churches. Members of churches seen as opposing state policies keep being harassed, arrested, and imprisoned, while church property has been destroyed, most recently – to the knowledge of Amnesty International – a small Mennonite church in Ho Chi Minh City in May 2006.

Despite several welcome prison releases, especially in 2005, the senior leadership of the Unified Buddhist Church of Vietnam (UBCV) remain under house arrest, including 86-year-old Supreme Patriarch Thich Huyen Quang, and his deputy Thich Quang Do. In Opinion 18 the UN Working Group on Arbitrary Detention (WGAD) in October 2005 proclaimed their detention as arbitrary, in contravention of article 18 of the International Covenant on Civil and Political Rights. The WGAD called for the Vietnamese government to urgently remedy this ongoing breach of international law.

Of the religious dissidents and prisoners of conscience released in 2005, some individuals, such as UBCV Buddhist monk Thich Thien Mien and Catholic priest Father Thadeus Nguyen Van Ly, are facing varying levels of surveillance, restriction and intimidation, illustrating how Vietnamese believers appear to enjoy freedom of worship at the individual level, but not systematic freedom of religion.

## **Death penalty – A State Secret**

In February 2006 the Ministry of Public Security proposed a reduction in the number of offences punishable by the death penalty "in tune with the general tendency around the world, which Vietnam should follow". The proposal, submitted to the central judicial reform commission for consideration, recommended that economic crimes such as fraud and embezzlement, smuggling, counterfeiting and bribery no longer be capital offences. It is reported that other offences punishable by death are also under consideration, and that the number of capital offences may be reduced from 29 to 20.

This welcome step, should it take effect in law, adds urgency to Amnesty International's calls for an immediate moratorium on all executions, and outstanding cases where death sentences have been imposed for economic offences.

The last known execution for economic crimes took place on March 21, 2006, when Phung Long That, the former head of the anti-smuggling investigating division of the Ho Chi Minh City customs department, was shot by firing squad. He had been sentenced to death in April 1999 after being convicted of accepting bribes and smuggling goods worth 70 million USD.

Currently the death penalty in Vietnam is optional for economic crimes such as smuggling, counterfeiting, embezzlement, offering bribes when it involves property and money valued over specified amounts. Other offences for which the death penalty is applicable include murder, rape, drug trafficking and national security crimes.

The reporting on the death penalty in Vietnam is sketchy since regulations have classified dissemination of such statistics a state secret. According to official media sources, at least 21 people were executed and 65 people including six women were sentenced to death in 2005, but the true figures were believed to be much higher.

## **The 2006 Manifesto**

In April 2006 a public petition calling for "freedom and democracy" was launched on the Internet, with a total of 118 original signatories, including prominent dissidents and former political prisoners from Hanoi, Hue and Ho Chi Minh City. To date the so-called 2006 Manifesto on Freedom and Democracy for Vietnam has been signed by over 1,000 people, domestically

as well as by dissidents abroad. Despite this interest it has so far not been met with any concerted repressive measures.

Among the initiators of the April appeals are both Nguyen Khac Toan and Reverend Nguyen Van Ly mentioned earlier, plus at least three of those arrested in the 2002/2003 Internet crackdown who were subsequently released: Colonel Pham Que Duong, 74, a retired colonel in the Vietnamese Army, military historian and former Editor-in-Chief of the Journal of Military history, Professor Tran Khue, 70, a former professor of Vietnamese and Chinese literature and writer, and Tran Dung Tien, 77, a military veteran.

The ways in which this petition and its signatories will be tackled by the new government and leadership will be a clear indicator in the months ahead of how committed they are to their obligations under international and national law.

### **Recommendations:**

- Lift all the restrictions on using internet for peaceful purposes and to repeal restrictive laws.
- End the use of national security legislation to stifle freedom of expression and association.
- Immediately and unconditionally release all prisoners of conscience.
- Allow independent and impartial agencies, e.g. the UN Special Rapporteur on Torture, on religious intolerance, and the UN Working Group on Arbitrary Detention, unfettered access to the Central Highlands and to other areas to monitor and investigate allegations of human rights violations.
- Initiate full and independent investigations into allegations of human rights violations against the Montagnard minority, and to bring perpetrators to justice in accordance with international standards.
- Take steps to allow freedom of religious practice to members of all churches, regardless of whether they are state-sanctioned, without conditions.
- Take steps to reduce the number of capital offences and ensure that prisoners remaining on death row who have been convicted of non-violent economic crimes are not executed and that their sentences are commuted and move towards abolition of the death penalty.

Thank you.

T. Kumar  
Advocacy Director for Asia & the Pacific  
Amnesty International USA

Phone: (202)544-0200, ext:224  
Fax: (202)546-7142  
Email: tkumar@aiusa.org

