

Socialist Republic of Viet Nam

The espionage case against the nephews and niece of Father Thadeus Nguyen Van Ly

Between 13 and 19 June 2001, siblings Nguyen Vu Viet [m, 27], Nguyen Truc Cuong [m, 36] and Nguyen Thi Hoa [f, 44], were arrested close to Ho Chi Minh City in southern Viet Nam. The three are accused of being in contact with “reactionary” organizations in the USA and providing information to them about the religious situation in Viet Nam, and their uncle, Father Thadeus Nguyen Van Ly – then in detention and subsequently given a 15 year jail sentence (see Appendix Two). Additionally the three are accused of receiving documents from the same organizations “to propagate and distort the religious policy of the Party and the government” and “to fight against the Government of the Socialist Republic of Vietnam”. The three are also accused of accepting money from the organizations with which they are alleged to have bought mobile telephones, taken “supplies” to Father Nguyen Van Ly in prison and provided money for a grave stone for Father Nguyen Van Ly’s mother. The three were arrested around one month after Father Nguyen Van Ly was taken into police custody.

Nguyen Vu Viet and his uncle Father Thadeus Nguyen Van Ly (© Private)

Amnesty International believes that the above activities are regarded as perfectly legal under international law and in most countries of the world. The branding the three accused as “spies”, a charge which can carry the death penalty according to the Vietnamese Criminal Code, is the misuse of loosely worded national security legislation to stifle the fundamental rights of freedom of expression and association. Amnesty International believes that the very serious nature of the charges against the three accused are directly related to the official reaction in the case of their uncle and are politically motivated. Amnesty International believes that the three accused should be immediately and unconditionally released.

Background

In October 2001, Father Thadeus Nguyen Van Ly was sentenced to 15 years’ imprisonment plus five years’ probation on release after a trial lasting only half a day. The accusations against him included “defying an administration order of confinement issued by a state agency and undermining the unity policy” under vaguely worded provisions of national security legislation used to criminalize peaceful dissent. Having previously spent 10 years in prison, Father Ly now faces another long term of imprisonment solely for the peaceful expression of his dissenting political and religious beliefs. He is regarded as a prisoner of conscience by Amnesty International.

The allegations against the nephews and niece

It is alleged that Nguyen Vu Viet was introduced to the Chair of the USA-based Committee for Religious Freedom in Viet Nam, Helen Ngo Thi Hien, during a visit to his uncle, Father Nguyen Van Ly in November 2000¹. Viet was allegedly requested by Helen Ngo to send her information about Father Ly after his arrest including childhood photos. Viet is accused of having opened three email accounts after his uncle's arrest to "receive documents to propagate and distort the religious policy of the Party and government". Helen Ngo is currently writing a biography of Father Ly.

Viet's sister Nguyen Thi Hoa is alleged to have been contacted by Radio Que Huong, a Vietnamese language radio station based in California, USA. According to the charge sheet she was asked for information on the religious situation in Viet Nam and specific Buddhist monks in particular who are still in detention. It is alleged that she enlisted the help of her brothers and that her younger brother Cuong was given some funding to cover the cost of a mobile telephone and other related expenses. Additionally, Nguyen Thi Hoa is alleged to have received some money for the building of a grave stone for Father Nguyen Van Ly's mother.

Both the Committee for Religious Freedom in Viet Nam and Radio Que Huong are regarded as "reactionary organizations" by the Vietnamese government. Neither organization is armed or calls for the overthrow of the Vietnamese state. Being seen to have contact with such organizations has in this case been regarded by the authorities – as shown on the charge sheet - as tantamount to spying. Both organizations are critical of current Vietnamese government policies, the Committee for Religious Freedoms commenting on religious issues and Radio Que Huong, in addition to programs for the Vietnamese community in the USA also broadcasting to Viet Nam using short wave, trying to "promote freedom and human rights....in Vietnam"².

The charge sheet

Amnesty International has received a copy of the charge sheet (Appendix One) which lays out in great detail the case against the three accused. The charge sheet is prepared for each case in Viet Nam by the Supreme People's Procuracy and is usually an accurate reflection of the eventual crimes that defendants are found guilty of. The vast majority of defendants in Vietnamese courts are found guilty.

The charge sheet shines light on the level of sophistication of the Vietnamese police and their thorough investigative methods, including close surveillance of people perceived as a threat to national security. The charge sheet lists the dates of and full contents of communications (emails, phone calls, and faxes) made by the accused. It is clear that the

¹ The Committee for Religious Freedom in Viet Nam (CRFVN) does not advocate the overthrow of the current Vietnamese government. Reference can be made to its website www.crfvn.org

² <http://www.clandestineradio.com/intel/vietnam.htm>

Vietnamese authorities have access to the internet messages of the accused and have recorded at least some of their phone conversations. The charge sheet also suggests that Article 80 of the Criminal Code is applicable to the case. Article 80 relates to allegations of “spying”.

The charge of espionage

Article 80 of the Criminal Code states in part:

- 1. Those who commit one of the following acts shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment:*
- c. Supplying or collecting for the purpose of supplying State secrets to foreign countries; gathering or supplying information and other materials for use by foreign countries against the Socialist Republic of Vietnam.*

It is unusual for the Vietnamese authorities to level the charge of espionage in cases such as these, although prominent dissident Nguyen Khac Toan was tried in December 2002 and sentenced to 12 years’ imprisonment for “spying”.³ The espionage charge, as stated in the above article of the Criminal Code, can carry the death sentence. Viet Nam has come under criticism from the United Nations Human Rights Committee for the excessively vague definition of certain acts such as national security violations for which the death penalty may be imposed⁴. Even the minimum sentence of 12 years going up to life imprisonment would seem excessive given the charges levelled at the accused.

The two organizations referred to, and labelled as “reactionary” may well be opposed to the current Vietnamese government but they do not advocate the use of armed force to overthrow the Vietnamese government nor do they represent “foreign countries” as specified in Article 80 of the Criminal Code.

Investigative methods and the right to privacy

The investigative methods used suggest that there has been a serious breach in the right to privacy of the accused. Amnesty International believes that they have been arrested for the peaceful exercise of their fundamental rights to freedom of expression and association and therefore that this breach in privacy is in violation of both articles 69 and 73 of the Vietnamese Constitution, as well as the rights enshrined in the International Covenant on Civil and Political Rights (ICCPR) to which Viet Nam is a State party⁵. Viet Nam has

³ See *Viet Nam: Crackdown on dissidents continues* (ASA 41/013/2002, 20 December 2002)

⁴ Concluding observations of the Human Rights Committee: Viet Nam. 26/07/2002, CCPR/CO/75/VNM para. B7

⁵ ICCPR Article 17:

- 1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.*
- 2. Everyone has the right to the protection of the law against such interference or attacks.*

claimed in a recent report for the United Nations Human Rights Committee that “for the execution of investigation and law enforcement purposes, the competent authorities are permitted to search the offenders’ domicile, examine, seize or freeze the objects, documents, letters, telegrams, packages and parcels, provided that all these activities strictly comply with the legal procedures and authorities.”⁶ However, Amnesty International believes that individuals regarded as ‘politically suspect’ are subject to intrusive and unacceptable surveillance, often for years, which violates international norms and any sense of natural justice. Amnesty International believes that Viet Nam’s own Constitution should not be used to justify actions which contravene international human rights law and standards to which the country is a state party.

Article 69 states:

The citizen shall enjoy freedom of opinion and speech, freedom of the press, the right to be informed and the right to assemble, for associations and hold demonstrations in accordance with the provisions of the law.

Article 73 states:

The citizen is entitled to the inviolability of his domicile.

No one can enter the domicile of another person without his consent, except in cases authorized by the law.

Safety and secrecy are guaranteed to the citizen’s correspondence, telephone conversations and telegrams.

Domiciliary searches and the opening, control, and confiscation of a citizen’s correspondence and telegrams can only be done by a competent authority in accordance with the provisions of the law.

Current whereabouts of the accused

Nguyen Vu Viet and Nguyen Truc Cuong are currently being detained at the B34 Ministry of Security Prison in Ho Chi Minh City. Their sister, Nguyen Thi Hoa was released on bail. She is a single mother (her husband died in 1998) and she has four children aged five to 18 years.

Amnesty International has no information as to the proposed date of their trial.

Conclusion

Amnesty International believes that the case of the nephews and niece of Father Nguyen Van Ly demonstrate the current repressive climate in Viet Nam where the peaceful exercise of

⁶ Viet Nam’s submission to the 2001 Human Rights Committee, CCPR/C/VNM/2001/2/Add.1 para. 185

fundamental freedoms when perceived to be in conflict with the interests of the State are criminalised and dealt with extremely harshly.

Amnesty International believes that the three defendants risk an unfair trial⁷ which might result in the death penalty or lengthy prison sentences. The organisation calls on the Vietnamese authorities to release the three immediately and without conditions and urges the Vietnamese government to review the purview of its national security legislation, to end the criminalisation of activities which do not constitute a crime under international human rights standards.

⁷ Amnesty International report: *Human Rights Review based on the International Covenant on Civil and Political Rights*, October 2002, ASA 41/007/2002, para. 2.7 ICCPR article 14: the right to a fair trial, pp 8 – 10.

Appendix One - Official allegations

UNOFFICIAL TRANSLATION

Supreme People's Procuracy

No: 16/KSDT - AN

Socialist Republic of Vietnam

Independence-Freedom-Happiness

Hanoi, 24 October 2002

VERDICT

Chairman of the Supreme People's Procuracy

-Per Articles 141,142 of the Criminal Law

-Per Decision No 118/QD-KTVA of 21/06/2001 to start criminal proceedings and other decisions No 120/QD-KTBA of 21/06/2001, 124-CQANDT of 27/06/2001 to start criminal investigations by the security agency, Ministry of Public Security, on Nguyen Vu Viet, Nguyen Truc Cuong and Nguyen Thi Hoa under the crime of "Spying".

On the basis of the investigations, it has been determined as follows:

November 2000, Nguyen Vu Viet (office worker at the Liaison Office for Training Programme between Van Hien University, Ho Chi Minh City, and Broward University, (USA), went to Nguyet Bieu, Hue, to see Nguyen Van Ly (Pastor of the Diocese An Truyen, who is Viet's uncle) to study Computers. During this trip, Viet met Ngo Thi Hien and Ngo Minh Thu, who are Vietnamese Americans. (Ngo Thi Hien is chairwoman of the Committee for Religious Freedom in Vietnam, a reactionary organisation of Vietnamese in the US.) These two were then in Hue to visit Nguyen Van Ly. Ly introduced Viet as his nephew and Thu suggested she can help Viet to go abroad to study. For further communications, Ly gave Thu's email to Viet. Back in the US, around May 2001, Thu sent Viet an email asking Viet to send his diplomas, academic records, resume and application in English so that Thu can find scholarships for Viet to go to the US. Viet did as told. (Written records No. 39,40,70-73 Vol II)

During this same trip to Vietnam, Hien invited Nguyen Van Ly to become advisor to the Committee for Religious Freedom in Vietnam. After Ly's arrest, Viet opened three email accounts to receive documents to propagate and distort the religious policy of the Party and the government, praises about Nguyen Van Ly from reactionary organisations such as the Information Bureau of the International Buddhist Church in Paris and the Committee for Religious Freedom in Vietnam in the US through email address CRFVubtdtg4@aol.com or

tudotgvn@aol.com (Written Records No 13 till 16, No 50 and 60 Vol II; No. 12 till 16; No 22 till 25; No 125 till 128, No 255, 256 Vol VI)

After 18/05/2001, while Nguyen Van Ly was under arrest, Ngo Thi Hien asked Viet to send her informations about Ly (after Ly's arrest) such as: Ly's childhood photos, and also asked Viet to answer 30 questions about Ly... and a few photos of the funeral of Mrs. Kinh (Ly's mother). Viet carried out all Hien's requests. In a letter answering the 30 questions about Nguyen Van Ly by Ngo Thi Hien, Viet recounted how Ly deceived the VC (i.e. Viet Cong) in the vote to select the diocese council. Viet also express bluntly his "feelings and thoughts" about Ly to Ngo Thi Hien. Viet also reasoned: "With the three no's -no possession, no ego, no needs- that Ly has learned as weapons in the fight against the VC (ie Viet Cong). At the end of this letter, Ly revealed to Ngo Thi Hien his feelings and asserted, "... perhaps like my uncle Ly, I cannot stay silent before injustice, a silence of cowardice and complicity. Accidentally, I have entered in the fight for the truth and surely consequences will come to me... ". Viet has carried out all Hien's request and Hien gave him 2,900,000 million Vietnam Dongs. (Written Records No 70 till 78 Vol II; No. 256 Vol VII)

By May 2001, Nguyen Thi Hoa, elder sister of Cuong and Viet, received a telephone call from a person who called herself Hien (Doan Trang) of Radio Que Huong, a reactionary organisation based in the US, broadcasting in Vietnamese). After several phone calls, Doan Trang proposed Hoa mobilised her younger brothers (Dung, Cuong, Viet) to help Trang in assessing the religious situations in Vietnam, first of all, about the trip from Quang Ngai to Ho Chi Minh City by Thich Huyen Quang. Hoa asked Nguyen Truc Cuong to help Doan Trang. Once, when Cuong was visiting Hoa's house, he heard the phone rang and answered. A woman who introduced herself as Hien (Doan Trang) asked Cuong who he was. When Cuong introduced himself as Hoa's younger brother, Father Ly's nephew. Doan Trang asked Cuong to cooperate and to provide her with information about the situation inside the country, religious situation... Even though Cuong had known Que Huong was against the Government of Vietnam, Cuong accepted to collaborate with Doan Trang and gave Doan Trang his phone number as 091.829.863 and took Doan Trang's number 001.4082233130 for further contacts. Doan Trang gave Cuong the code name "Pham Viet". The first task that Doan Trang gave to Cuong was to ask him to go to Thanh Minh Thien Vien (a Buddhist temple) at 90 Tran Huy Lieu St, Ho Chi Minh City, to find out how the monks and Buddhists plan to welcome Thich Huyen Quang. On 1/6/2001, Cuong receive 500US\$ from Doan Trang via Hoa to buy mobile phones and to cover transportation costs. Doan Trang also promised Cuong 20 million Dong to help him repay his debts. Cuong went with Viet to buy mobile phones (Siemen C35). Viet reminded Cuong to buy 2 simcards (one for network 091 and one for network 090) to facilitate communications and to avoid detection. Cuong gave one simcard to Viet. Viet phoned Doan Trang to give her their new number. (Written Records No 24 till 27; No. 48, Vol III; No. 79 till 85 Vol II).

About 6 am on 7/6/2001, Cuong arrived in Ho Chi Minh City and asked Viet to go to have a coffee. Cuong told Viet about what Doan Trang wanted. Viet told Cuong to be careful. After that Cuong went to Thanh Minh Thien Vien and found that everything was normal. Cuong phoned Trang to tell her that "everything is normal". After that, Doan Trang asked Cuong to

go to Da Lan Temple on Truong Cong Dinh St., Ho Chi Minh City, to see if there were any preparations to welcome Thich Huyen Quang. Cuong accepted but did not go; when asked by Doan Trang, Cuong said "Nothing happened, everything was normal".

After that, Doan Trang asked Cuong to go to Quang Ngai (province) to find out about Le Dinh Nhan (ie Huyen Quang), to take photos, to record a conversation with Nhan about his aspirations, and his messages to Buddhists both inside and outside the country... On 9/6/2001 Cuong went to Quang Ngai. On the way, Cuong bought a cassette recorder. Cuong came to Phuoc Quang Temple and met Le Dinh Nhan. Cuong had a conversation with Nhan, took two photos, opened the recorder to record but then turned it off out of fear. When he came out of the temple, he was arrested. (WR No. 49 till 52, Vol III)

From Cuong and Hoa, Viet knew that Doan Trang worked for Radio Que Huong. Doan Trang phoned Viet several times. Viet also phoned Hien (Doan Trang) several times to tell her about the situation of Nguyen Van Ly (after his arrest). Especially from 12/6/2001 till 17/6/2001 Viet rang Doan Trang 6 times, in which one conversation cost 168,670 Dong. (WR No. 67 Vol I), but Viet did not reveal the whole truth about this conversation during interrogation. Viet also provided a friend's address, Nguyen Van Thien Vu on Thich Quang Duc St, Phu Nhuan District, Ho Chi Minh City, so that Hien (Doan Trang) and her gang can send him money. When received 650US\$, Viet gave his older brother Dung 500US\$ to take care of his mother, and kept 150US\$ for himself. After Cuong's arrest, Viet rang Doan Trang to ask for Le Dinh Nhan's address to go looking for Cuong. Right afterward, a man rang and told Viet not to go to Quang Ngai because it was too dangerous. (WR No. 67 Col I; No 85, 86 Vol II, No 54, 55 Vol IV).

Since knowing Doan Trang, Hoa received 2,300US\$ from her delivered by two unknown men. Following Doan Trang's instructions, Viet gave Mrs Hieu, (Ly's sister) 500US\$ to bring supplies for Ly in prison; he gave Mrs. Quy (Hieu's older sister) 1000US\$ to build a grave marker for Mrs Kinh; and he gave Cuong 500US\$. Doan Trang gave Hoa 300US\$ (WR No. 27,28,48,49 Vol IV).

In addition, Nguyen Vu Viet opened three email accounts and borrowed Nguyen Van Thien Vu's email address to receive anti government documents by Nguyen Van Ly or other sources such as: Witness No. 2; Declaration on the true situation of the Catholic Church in the diocese of Hue; Appendix to the United Nations Human Rights Declaration, the full text of Charter 2000; Truth Revealed; Press release from Paris dated 13/6/2001... Viet stored all these documents on diskettes or hard drive (erased or intact) in his computer. Among these Viet printed a number and brought home to his mother and brothers and sisters in Dong Nai (WR No 47 till 67 Vol II).

Based on the above mentioned proofs, there are sufficient grounds to:

CONCLUSION

From November 2000 till June 2001, even though knowing that the Committee for Religious Freedom for Vietnam and Que Huong Radio to be reactionary organisation, Nguyen Vu Viet,

Nguyen Truc Cuong, Nguyen Thi Hoa still gathered, provided information, documents for Ngo Thi Hien (who worked for the Committee for Religious Freedom for Vietnam) and Doan Trang (who worked for Radio Que Huong) to fight against the Government of the Socialist Republic of Vietnam. Specifically:

-**Nguyen Vu Viet** directly collected and provided Ngo Thi Hien information about Nguyen Van Ly, against the Socialist Republic of Vietnam and accepted from Hien 2,900,000 Vietnam Dong. Knowing that Nguyen Truc Cuong cooperated with Hien (Doan Trang) who worked for Que Huong Radio, Viet helped Cuong buy mobile phone as means of communications; reminded Cuong to buy 2 simcards to avoid detections. Viet received 650US\$ from Hien (Trang) gang, and kept 150US\$ for his own. Furthermore, Viet possessed a number of anti-government documents, and brought some home to his mother and his brothers (Dung and Hoang) in Dong Nai province.

Nguyen Vu Viet committed the crime of Spying as defined in Part C, Section 1, Article 80 of the Criminal Law of the Socialist Republic of Vietnam.

-**As for Nguyen Truc Cuong**, through the introduction of Nguyen Thi Hoa (older sister of Nguyen Truc Cuong), Cuong directly got in touch with Hien (Doan Trang) who worked for Radio Que Huong in the US. Knowing the Que Huong Radio is a means of enemies of the people's government, Nguyen Truc Cuong still received from Doan Trang 500US\$ to buy mobile phones, camera, and cassette recorder and carried out instructions from Doan Trang. Nguyen Truc Cuong went to Thanh Minh Thien Vien to see about the welcome preparations for Le Dinh Nhan from Quang Ngai to Ho Chi Minh City; Cuong went to Quang Ngai to get information from Le Dinh Nhan in order to transfer abroad to Doan Trang.

Nguyen Truc Cuong committed the crime of Spying as defined in Part C, Section 1, Article 80 of the Criminal Law of the Socialist Republic of Vietnam.

-**Nguyen Thi Hoa** was the person who was in direct contact with Doan Trang and asked Viet and Cuong to realise Doan Trang's requests about collecting and providing documents for Doan Trang to use against the State of the Socialist Republic of Vietnam. Hoa received from Doan Trang 2300US\$ to transfer to various addresses according to Doan Trang's instructions; including 500US\$ for Cuong to carry out Doan Trang's instructions; 500US\$ for Mrs. Hieu (Ly's older sister), 1000US\$ for Mrs. Quy, (Mrs Hieu's older sister) to build a headstone for Nguyen Van Ly's mother. Hoa herself received 300US\$.

Nguyen Thi Hoa committed the crime of Spying as defined in Part C, Section 1, Article 80 of the Criminal Law of the Socialist Republic of Vietnam.

CURRICULUM VITAE OF THE ACCUSED - OMITTED

Article 80 of the Criminal Code:

Those who commit one of the following acts shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment:

a...

b...

c Supplying or collecting for the purpose of supplying State secrets to foreign countries; gathering or supplying information and other materials for use by foreign countries against the Socialist Republic of Vietnam

Judging that the acts committed by Nguyen Vu Viet, Nguyen Truc Cuong, Nguyen Thi Hoa are very serious, and should be dealt with seriously before the law.

Per the above reasons:

DECISIONS

1 Charge the accused Nguyen Vu Viet, Nguyen Truc Cuong, Nguyen Thi Hoa with the above curriculum vitae before the People's Court of Ho Chi Minh City for the crime of "spying" according to the provisions of the point C, section 1, Article 80 of the Criminal Law as presented above.

2 Propose the Court of Ho Chi Minh City to apply Article 92 of the Criminal Law for additional punishment against the accused.

3 Delegate to the People's Procuracy of Ho Chi Minh City to carry out the prosecution for the trial.

Attached with the verdict is the files of trial comprising...pages numbered from 01 to...

Destination	For the Chairman of the Supreme People's Procuracy
- File of the law suit	Procurator
- File for KDST	(signed and stamped)
- ANDT Officer – Security	Nguyen Manh Hien
Ministry	
- The accused	
- Archives 2C, HS.	

Appendix Two

The case of Father Thadeus Nguyen Van Ly

Father Thadeus Nguyen Van Ly, a Catholic priest was arrested at An Truyen church, Phu An commune in central Thua Then-Hue province in May 2001. Father Ly had previously spent one year in prison between 1977 and 1978 and then a further nine years in prison between May 1983 and July 1992, having been sentenced to 10 years' for 'opposing the revolution and destroying the people's unity.' According to a report from the state-controlled radio Voice of Viet Nam, Father Ly was brought to trial on 19 October 2001 at the People's Court of Thua Thien-Hue Province. The trial is reported to have lasted only half a day, at the end of which he was sentenced to a total of 15 years' imprisonment, plus five years' probation on his release.

Father Ly was sentenced to 13 years' imprisonment for violating Article 87 of the Criminal Code. The charge under Article 87 is believed to relate generally to Father Ly's peaceful activities carried out in the practice of his religious beliefs over a number of years, including his consistent calls for more religious freedom and criticism of the Vietnamese authorities for their human rights policies, for which he has been publicly denounced by the official media. Accusations against him include disseminating "reactionary materials which distort the truth and cause doubt and contrariness between the local people and the administration....sowing the seeds of division between the local religious believers and the administration and undermining the state policy of great unity."

Father Ly was sentenced to a further two years' imprisonment under Article 269 for failing to comply with a two year administrative arrest order placed upon him on 26 February 2001, which he stated was "wrong and unjust". Under the terms of this order Father Ly was effectively placed under house arrest, because of his "activities, which violate laws and threaten national security" The order was imposed by the People's Committee of Thua Thien Hue province following Father Ly's written testimony to the United States Commission on International Religious Freedom earlier in February, which he strongly criticized the situation in Viet Nam, stating that "in the realm of religion, the control of the communist government has stripped all churches of their independence and freedom". According to the media report, Father Ly had "refused to behave himself and continued to oppose local authorities incite religious believers to cause social disorder, prevent local people from fulfilling their obligations, and undermine the state policy of national unity".