

Socialist Republic of Viet Nam

Dr Pham Hong Son - Prisoner of conscience



Dr Pham Hong Son



The wife and children of Dr Pham Hong Son

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Introduction

Dr Pham Hong Son, a 35 year old businessman and qualified medical doctor, was sentenced to 13 years imprisonment for espionage on 18 June 2003 after a closed trial lasting only one day. He was also sentenced to three years house arrest on release from prison. He has 15 days to appeal his sentence.

Amnesty International believes that Dr Pham Hong Son, arrested for the peaceful expression of his political beliefs, is a prisoner of conscience and calls for his immediate unconditional release. The right to freedom of expression is guaranteed in the Vietnamese Constitution and under international law to which Viet Nam is a state party. However, Dr Pham Hong Son's case is only one of many recent arrests and trials of people who are openly critical of aspects of Vietnamese government policy. Many of those arrested and imprisoned come from influential positions in Vietnamese society.

Dr Pham Hong Son graduated from Ha Noi Medical University in 1992, and practiced as a doctor for a short time. He then continued his studies in business administration in Ha Noi. Most recently he has worked as the Business manager for a pharmaceutical company Tradewind Asia. It is believed that he became interested in human rights after reading the work of Nguyen Gia Kieng, a Paris-based Vietnamese dissident. In a personal capacity, Dr. Pham Hong Son subsequently became very active in sharing information that he found on the worldwide web and writing, via the Internet, to friends and government officials. He is also one of 21 dissidents who signed a petition to the authorities

in August 2002 which called for peaceful political reform. By his actions, he knowingly put a potentially very successful career in jeopardy.

Dr Pham Hong Son wrote articles himself, and translated articles written by others. Among the articles written and published on the Internet are: *The Promotion of Democracy: a Key Focus in a New World Order* and *Sovereignty and Human rights: The Search for Reconciliation*, published on Danchu.net and Ykien.net.¹

Dr Pham Hong Son is married with two young children. His family have not seen him since his arrest. He is currently detained at B-14 prison in Ha Noi.

Arrest and pre-trial detention

Dr Pham Hong Son was arrested on 27 March 2002 having translated an article entitled “What is Democracy?” from the United States embassy in Viet Nam website, and sending it to both friends and senior party officials. He also wrote an article, “Hopeful Signs for Democracy in Viet Nam” which was again sent to senior party officials. In none of his activities did Dr Pham Hong Son advocate violence in his opposition to the Vietnamese government and their policies.

Shortly before his arrest, Dr Pham Hong Son’s house was searched, reportedly by members of the special police unit P4-A25. He was also summoned for questioning. Computer equipment and personal papers were removed from his home. The following day Dr Pham Hong Son is reported to have returned to the same police station to claim his personal belongings without success. In protest, he published an open letter on the Internet protesting at the search of his home and confiscation of his belongings. Two days later, his family announced that he had “disappeared”.

On 20 June 2002, his wife, Vu Thuy Ha, wrote an open letter of complaint (see Appendix 2) to the head of the Supreme People’s Procuracy, Ha Manh Tri. Dr Pham Hong Son’s wife accused the authorities of failing to provide his family with an arrest order which indicated the reasons for his detention. She stated that she did not receive a report from the Security Investigations Unit until 6 April 2002 informing her that her husband was under “temporary custody” due to his actions of “gathering and supplying information and documents for a foreign country to be used to oppose the Socialist Republic of Viet Nam”. In her open letter, Vu Thuy Ha claims that her husband’s arrest was in violation of Article 71 of the Vietnamese Constitution because no arrest order from either the People’s Court or the People’s Investigative Court was provided.

Vietnamese Constitution Article 71:

The citizen shall enjoy inviolability of the person and the protection of the law with regard to his life, health, honour and dignity.

No one can be arrested in the absence of a ruling by the People’s Court, a ruling or sanction of the People’s Office of Supervision and Control, except in

¹ *A third web dissident arrested*, Reporters sans Frontieres, 17 April 2002.

case of flagrant offences. Taking a person into, or holding him in, custody must be done with full observance of the law.

It is strictly forbidden to use all forms of harassment and coercion, torture, violation of his honour and dignity, against a citizen.

When Dr Pham Hong Son's wife wrote her open letter in late June 2002, more than three months after the arrest of her husband, she still had not been allowed to visit him. Initially, she was unaware of his place of detention. By the time of the trial, she still had not been permitted to visit him in prison. During the trial she was denied access to the courtroom when Dr Pham Hong Son was present.

Amnesty International believes that Dr Pham Hong Son was held in lengthy pre-trial detention in contravention of both Vietnamese and international law. Under the July 1988 Viet Nam Criminal Procedure Code, the period of temporary detention for investigation cannot exceed two months for "less serious crimes", or four months for "serious crimes". However, if a person is being held for investigation of crimes "of particular danger to national security", this period can be further extended by the Chief Procurator. Dr Pham Hong Son was detained for 15 months with no access to his family.

Accusations against Dr Pham Hong Son

Amnesty International has received a copy of the official indictment (an unofficial translation is attached in Appendix 1) which lays out in great detail the case against Dr Pham Hong Son. An indictment is prepared for each case in Viet Nam by the Supreme People's Procuracy and is usually an all too reliable indicator of the eventual crimes for which the defendants are eventually found guilty. The vast majority of defendants in Vietnamese courts are found guilty.

The indictment details contacts that Dr Pham Hong Son had with a number of dissidents in Viet Nam and within the Vietnamese community in exile overseas through email correspondence. In particular, accusations focus on his association with a France-based organization Thong Luan maintained by Vietnamese in exile, which uses a website to post information relating to democracy and human rights issues in Viet Nam (www.thongluan.org). This organization is described as a "reactionary group against the State of Viet Nam". In one part of the indictment it describes how Dr Pham Hong Son exchanged "13 emails" with the head of this organization during one two-month period.

As justification for charging Dr Pham Hong Son with "spying" the indictment alleges that he had email contact with "exile reactionary persons from abroad", from whom he received financial assistance, and that he distributed information to "falsely accuse the State of violating human rights."

Espionage Charge

The charge of espionage is covered by Article 80 of the Viet Nam Criminal Code which 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.

The authorities have recently started to use this legislation to imprison dissidents for long periods solely for exercising their rights to freedom of expression. For example, prominent dissident Nguyen Khac Toan was tried in December 2002 and sentenced to 12 years' imprisonment for "spying".² The two nephews and niece of prisoner of conscience Father Thadeus Nguyen Van Ly are currently awaiting trial on charges of "spying" for passing information about their uncle to people outside the country.³ According to an official document from Viet Nam another three prominent and well-respected dissidents detained since the beginning of the year – Pham Que Duong, Tran Khue, and Tran Dung Tien – also face the possibility of prosecution under Article 80.

Article 80 specifies "*the involvement of a foreign country*" and "*State secrets*". It is noteworthy that the indictment prepared in his case makes no mention of the involvement of a foreign government in his case, nor is mention made of "*State secrets*" passed to a foreign power.

In its report following a visit to Viet Nam in 1993, the United Nations Working Group on Arbitrary Detention made the following comment on the characterization of crimes against national security that Amnesty International believes is relevant to the situation of Dr. Pham Hong Son:

*"For reasons possibly linked with recent history, the characterizations of offences as crimes against national security, as defined in article 73 of the Penal Code, draw no distinction on the grounds of the use or non-use of violence or of incitement or non-incitement to violence. The Working Group notes that the present wording of article 73 is so vague that it could result in penalties being imposed not only on persons using violence for political ends, but also on persons who have merely exercised their legitimate right to freedom of opinion or expression. However justified – or at least understandable – this assimilation of peaceful political action and violent action may be in a state of war, it nevertheless is becoming less and less compatible with the new policies laid down by the Government"*⁴

² See *Viet Nam: Crackdown on dissidents continues* (ASA 41/013/2002, 20 December 2002).

³ See *Socialist Republic of Viet Nam: The espionage case against the nephews and niece of Father Thadeus Nguyen Van Ly*, (ASA 41/004/2003, April 2003).

⁴ Question of the human rights of all persons subjected to any form of detention or imprisonment, Working Group on Arbitrary Detention: Visit to Viet Nam, E/CN.4/1995/31/Add.4, para 58. Please note that article 73 of the old penal code was widely used for the imprisonment of dissidents. Since the introduction of the new Penal Code, the authorities have increasingly been using Article 80 – espionage.

Proper procedures for arrest and search

Amnesty International believes that Dr Pham Hong Son has been arrested for the peaceful exercise of his fundamental rights to freedom of expression and association in violation of Article 69 of the Vietnamese Constitution which 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.”

The organization also believes that the detailed indictment against Dr Pham Hong Son, which shows the authorities had access to the Internet messages and have recorded at least some of his phone conversations, indicates that there has been a serious breach of privacy in violation of Article 73 of the Vietnamese Constitution which 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.”

This is in addition to being in contravention of the rights enshrined in the International Covenant on Civil and Political Rights (ICCPR) to which Viet Nam is a state party, specifically Article 19 (Freedom of expression), Article 22 (Freedom of association) and Article 17 (Right to privacy)⁵.

Viet Nam has 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

⁵ ICCPR Article 17:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, not to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

⁶ Viet Nam's submission to the 2001 Human Rights Committee (CCPR/C/VNM/2002/2/Add.1 para 185.

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.

Lack of fair trial

Amnesty International believes that Dr Pham Hong Son did not have a trial that would be considered fair and that met even the most basic standards of internationally accepted justice.⁷

Article 14 (right to a fair trial) of the ICCPR can be summarized as follows:

“Everyone is equal before the law. Everyone has the right to a fair trial. Everyone has the right to be presumed innocent until proven guilty. No one may be compelled to testify against himself”⁸

The closed trial took place at the People’s Court in Ha Noi on 18 June 2003. Formal requests by diplomats to attend were not responded to and those who tried to enter the court were turned away by security officials. Foreign journalists were also not allowed to attend. It was reported that heavy security measures were taken outside the courtroom, apparently a reaction to the strong international interest in the case of Dr Pham Hong Son. It has been reported that the trial lasted for only half a day before the heavy sentence was handed down. It is reported that Dr Pham Hong Son did not have adequate legal representation.

Article 14 of the ICCPR is routinely breached in Viet Nam. Specifically, the following rights are not guaranteed: the right to a fair and public hearing, by a competent, independent and impartial tribunal; the right to be presumed innocent until proven guilty; the right to have adequate time and facilities for the preparation of a defence, and to communicate with counsel of one’s own choosing; and the right to call and question witnesses.

In a radio interview following the trial, Dr Pham Hong Son’s wife is reported as saying that she was the only witness called by the prosecution, and that she was only allowed to answer “yes” or “no” in reply to two questions. She was reportedly not permitted to remain in the court-room while Dr Pham Hong Son was present. She is quoted as saying:

“Dr Pham Hong Son’s parents and the rest of the family appeared shocked at the proceedings and the sentence. I had to learn about my husband’s sentence from people coming out at the end of the trial.”⁹

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, pp8 – 10.

⁸ Summary of ICCPR articles as provided by The People’s Movement for Human Rights Education at: <http://www.pdhre.org/conventionsum/covsum.html>

⁹ Vietnamese cyber-dissident’s wife protests conviction, *Radio Free Asia*, 19 June 2003.

The right to freedom of opinion and expression in Viet Nam

Dozens of the prisoners and former prisoners adopted by Amnesty International as prisoners of conscience in the last decade have been held because of their attempts to exercise their rights under Article 19 (freedom of expression) of the ICCPR. It is a matter of great concern to the organization that the Vietnamese authorities continue to insist that these and other prisoners are held because they are law-breakers. Vietnamese law is clearly and deliberately drafted to criminalize the right to freedom of expression. Anyone whose political views differ from those of the Communist Party of Viet Nam, and who dares to say so, has committed a criminal offence in Viet Nam. The official Voice of Viet Nam website stated on 25 October 2001:

“Taking advantage of the information super highway, reactionaries in Viet Nam transferred incorrect information on democracy in Viet Nam abroad. As a result, anti-Viet Nam forums and organizations’ evidence of Vietnamese violations of democracy is nothing but a hoax, revealing their intentions to impose western-style freedom of democracy and a US attitude towards religious and human rights issues. The goal in spreading doctrines on freedom of democracy, ideas unfamiliar to the history and culture of Viet Nam and the socialist nature of the country is to erode local Vietnamese people’s confidence in the socialist path and ruin belief in the homeland’s future for more than two million overseas Vietnamese. Some overseas organizations and anti-Viet Nam media agencies praised certain agitators as ‘democracy supporters’, their discordant voices represent nobody but themselves.”¹⁰

In defence of the sentence passed on Dr Pham Hong Son, one day after the trial a spokesperson from the Ministry of Foreign Affairs is reported to have said that the government is “well aware of the importance of the Internet in the age of information explosion.” The spokesperson was also reported as saying that although freedom of speech is guaranteed under Viet Nam’s constitution, information which is a threat to security and incites social disorder “cannot be allowed to be floating on the Internet.”¹¹

Conclusion

Amnesty International believes that Dr Pham Hong Son was imprisoned in contravention of both Vietnamese and international law to which Viet Nam is a State party. He was held for over a year in pre-trial detention, itself a breach of Vietnamese law, given the absence of evidence of his danger to national security.

¹⁰ Voice of Viet Nam text website, Ha Noi, in Vietnamese 25 October 2001, as reported by BBC monitoring

¹¹ Political Arrest Illustrates Vietnam Lags in Reform, Margot Cohen, *The Wall Street Journal*, 24 June 2003

Dr Pham Hong Son was denied a fair trial and given a shockingly harsh sentence for propagating information about democracy and criticism of his treatment at the hands of the authorities through the Internet. Amnesty International believes that Dr Pham Hong Son has not committed any crime which is recognizable under international law. The organization maintains that Dr Pham Hong Son was imprisoned for exercising his basic and fundamental right to the freedom of expression. The organization regards him as a prisoner of conscience and calls on the Vietnamese authorities to release him immediately and without conditions.

APPENDIX 1: Unofficial translation of the official indictment against Dr Pham Hong Son

Supreme People's Procuracy
No. 06/KSDT-AN

Socialist Republic of Vietnam
Independence – Freedom – Happiness

Hanoi, 10 April 2003

INDICTMENT

The Chief of the Supreme People's Prosecution Office

- based upon Articles 141, and 142 of the Criminal Proceedings Code;
- based upon Decision to Prosecute Criminal Case No. 06/KTVA dated 02 April 2002 by the Security and Investigation Bureau of the Ministry of Public Security; [and]
- based upon Decision to Prosecute Indictee No. 34/KTBC dated 2 April 2002 by the Security and Investigation Bureau of the Ministry of Public Security;

has, in consideration of investigative results, affirmed the following:

On 02 March 2002, after verifying reports submitted by the information management authority, the Security and Investigation Bureau of the Ministry of Public Security urgently arrested Pham Hong Son, a staff of the pharmaceutical firm of Tradewind ASIA. Searching Son's home, the Security and Investigation Bureau of the Ministry of Public Security also confiscated many documents with content distorting and denigrating the [Communist] Party and the State that Son had collected and stored. In addition, [the Security and Investigation Bureau of the Ministry of Public Security] also seized one computer of which the hard-disk stored emails exchanged between Son and several reactionary persons from abroad. On 02 April 2002, for further investigation, the Security and Investigation Bureau of the Ministry of Public Security decided to initiate criminal proceedings and prosecute Pham Hong Son for the crimes of collecting information and materials and handing them over to foreign countries for use against the Socialist Republic of Vietnam, according to Article 80 of the Criminal Code.

Investigative results and documents gathered have shown that since July 2000, after reading some documents written by political opportunist Tran Khue, Pham Hong Son intentionally telephoned Tran Khue to make acquaintance with him, and based on this relationship, Son had contacts with some other political opportunists, including Hoang Minh

Chinh, Le Chi Quang, Nguyen Dac Kinh, etc., and these people had provided him with their materials and writings, with content distorting the orientations and policies of the Party, and denigrating the regime. Thereafter, Son had agreed with, and supported, views of these political opportunists, and agreed that they should exploit freedom and democracy to struggle for pluralism and a multi-party system, opposing the Government of the Socialist Republic of Vietnam (records 72, 73, 74, 75, 76, 77, 78).

After reading “To Quoc An Nan” (“Remorseful Motherland”) written by Nguyen Gia Kieng, leader of Thong Luan, a Paris-based reactionary group opposing the State of Vietnam, Pham Hong Son took the initiative to communicate with Nguyen Gia Kieng via electronic mailboxes; seized documents prove that between mid-December 2001 and January 2002, Son and Nguyen Gia Kieng had exchanged emails 13 times (records 81, 82, 1211).

In emails sent to Son, Nguyen Gia Kieng accepted Pham Hong Son as an official member of a reactionary organization named “Tap Hop Dan Chu Da Nguyen” (“Rally for Democracy and Pluralism”). [Kieng] praised Son as a “model of leadership for the country” (records 1227, 1228); discussed with Son conditions to change the nature of the current regime, that were to untie the the people from the Party and the State; agreed [with Son that they have] to gather forces for a pluralistic democracy, instructed Son to set up “To Chuc Tap Hop Dan Chu Da Nguyen” (“Rally for Democracy and Pluralism”) with [the target of having] about 1,000 individuals, of which 80% should be from inside the country. Kieng also guided Son on how to recruit members [for the Rally], and set out [their] operating principles: being cautious, but [on the other hand,] putting faith upon people in order to strengthen force, and avoiding elements already under surveillance. In addition, Nguyen Gia Kieng requested Son to report on democratic developments in Vietnam, means to implement [their] action plans, tasks to be assigned to inside and outside components, and to provide Kieng with email addresses of youths for Kieng’s direct distribution of materials. In emails sent to Kieng, Pham Hong Son provided his biography, informations on his relatives as well as his leanings; Son proposed his action principles were to unify forces from inside and outside the country in order to conduct propaganda and educate the mass, especially the youths, as a ground for the development of a democratic movement in Vietnam. In seeking means to perform [his principles], Son expressed [with Kieng] that it was necessary to have an information centre or an online media, and [he] asked Kieng to provide financial aids, backing from international media, [and] educational materials on political, economical and social issues. Pham Hong Son has performed Nguyen Gia Kieng’s requests (records nos 166, 167, 168, 1222, 1223, 1224, 1225, 1227, 1228, 1234, 1235, 1236, 1238, 1239, 1240, 1241, 1242).

Beside Nguyen Gia Kieng, Pham Hong Son, via electronic mailboxes, had also contacted with some other people from abroad, including Tran Nam, Nguyen Phu Long, Bui Dinh Thang, Tran Tu Son (from the United States), Nguyen Kha Pham Thanh Chuong, Hoang The Chuong from Australia. Son regularly emailed them to report on situations of hostile elements from inside the country, translated materials and documents with content against the Party and the State, and transmitted those documents and materials to the above-mentioned people in supporting them to launch campaigns to falsely accuse our State of

violating human rights (records 503, 504, 505, 506, 549, 550, 551, 552, 553, 554, 577, 578, 579, 580, 581, 582, 583, 584, 585, 663).

The above-mentioned people from abroad also instructed Son on travelling and operational methods, exchanged [with Son] electronic funds to evade the authorities' detection. Son also directly received money from them and then distributed to families of Le Chi Quang (USD100), Nguyen Vu Binh (VND 1 million), and Son received for himself USD150, as tokens to promote and encourage families of arrested persons and to finance Son's activities. In addition to receiving money, Son also prepared "Du Thao Lap Quy Tu Nguyen Cho Dan Chu O Vietnam" ("Draft on Establishment of Voluntary Contribution for Vietnam's Democracy"), aiming to collect monetary contributions from others to cover materials purchase, information updating, document printings, and payments of telephone and internet services bills (records 166, 167, 168).

During the investigation process, Son retracted his statements, denied accusations against him and argued that he did not have contacts with people exchanging emails with him, and alleged that materials available in his computer were hackers' products, and that he did not receive money from people from abroad (records 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 114, 115, 116, 117, 118, 129, 130, 131, 132). However, his wife Mrs Vu Thu Ha made statements that at his home, internet services were [solely] used by Son and only he had password to access his electronic mailbox, and that Mrs Ha also realised that Son had signs to have "actions", that she admonished him but he disregarded her concerns (records 135, 136, 137, 138, 139). Mrs Nguyen Thi Kim Chung, mother of Le Chi Quang also stated that she received money from Son; and she voluntarily handed USD100 to the Investigation Bureau (records 142, 143, 144, 146, 147). Nguyen Vu Binh also stated that he received from Son VND 1 million for Binh's activities (records 148, 149, 150, 151).

Investigative results have shown that the internet connections/engagements that Son subscribed with the post office were consistent with materials and evidence seized at his house.

CONCLUDES

The materials and evidence made available in the file of this case are sufficient to conclude that:

From July 2000 to March 2003, Pham Hong Son, by electronic mailbox, had contacted with a number of exile reactionary elements from abroad. Son had directly received money from them and acted under their instructions in collecting materials with content denigrating and distorting the policy of the Party and the State, collecting materials and information and distributing them to exile reactionary persons for them to falsely accuse the State of violating human rights. Under the instructions of Nguyen Gia Kieng, Pham Hong Son had actively prepared for the establishment and development of forces fighting for

pluralism and democracy in Vietnam, and provided email addresses of a number of persons for Kieng to transmit materials into the country.

The above activities of Pham Hong Son are defined as “espionage crimes” under paragraph (c) of Section 1 of Article 80 of the Criminal Code of the Socialist Republic of Vietnam.

Individuals relating to Son [‘s activities] have been prosecuted and dealt with in other criminal cases.

Article 80. Spying

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:

- a) Conducting intelligence and/or sabotage activities or building up bases for intelligence and/or sabotage activities against the Socialist Republic of Vietnam;
- b) Building up bases for intelligence and/or sabotage activities at the direction of foreign countries; conducting scouting, informing, concealing, guiding activities or other acts to help foreigners conduct intelligence and and/or sabotage activities;
- 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 Viet Nam.

RESUME OF THE DEFENDANT

- Full name: Pham Hong Son, born 1968 in Nam Dinh
- Place of origin: Nam Dinh City of Nam Dinh Province
- Occupation: staff of the pharmaceutical firm of Tradewind ASIA
- Education: Hanoi Medicine University graduation
- Nationality: Vietnamese; Ethnicity: Kinh; Religion: None
- Registered residence: Room 303 E2, Back Khoa Livingquarters, Hai Ba Trung [District], Hanoi
- Place of residence: 72B Thuy Khue [Street], Tay Ho [District], Hanoi
- Father: Mr Pham Van Than (77 year-old), Mother: Mrs Vu Thi Mui (76 year-old); currently residing at 155 Hoang Van Thu [street], Nam Dinh City, Nam Dinh Province
- Wife: Vu Thuy Ha, born 1971
Place of residence: 72B Thuy Khue [Street], Tay Ho [District], Hanoi
- Two children: Pham Vu Anh Quan, born 1997 and Pham Vu Duy Tan, born 1999
- Previous charges and convictions: none
- Defendant currently detained at Detention Centre B14 of the Ministry of Public Security

In consideration of the above,

DECIDES

1. to prosecute defendant Pham Hong Son with the above identification before the People's Court of Hanoi for the charge "Espionage", in accordance with paragraph (c) of Section (1) of Article 80 of Criminal Code as quoted above;
2. to delegate the People's Procuracy of Hanoi to prosecute before the court.

Enclosed with this Indictment is the completed file of the case, which has five volumes, recorded from number 1 to number 5.

Addressees:

- Hanoi People's Procuracy
- Security Investigation Office of Ministry of Public Security
- Hanoi People's Court
- Defendant Son
- For file (two copies), admin department [of Supreme People's Procuracy]

Under authorisation of

Chief Prosecutor

Supreme People's Procuracy

Nguyen Manh Hien
Prosecutor
(signed and sealed)

APPENDIX 2: Translation of letter of complaint from Dr Pham Hong Son's wife to the Supreme People's Procuracy

Socialist Republic of Vietnam
Independence – Freedom – Happiness

COMPLAINT

To: Ha Manh Tri, Chief of the Supreme People's Procuracy, Socialist Republic of Vietnam

Copies to:

Nguyen Van An, Speaker of the National Assembly, Socialist Republic of Vietnam
Tran Duc Luong, President of the Socialist Republic of Vietnam
Phan Van Khai, Prime Minister of the Socialist Republic of Vietnam
Le Minh Huong, Minister of the Public Security Service
And all concerned agencies

My name is Vu Thuy Ha
Address: 72 B Thuy Khue, Tay Ho, Hanoi

I make the following complaint:

My husband is Pham Hong Son, 35 years of age, holder of a higher-level diploma, business manager for the northern market of the pharmaceutical company Tradewind Asia at 465 Nguyen Trai Street (Dong Da, Hanoi). Sometime during February 2002, my husband translated from English to Vietnamese a document from the front page (of a publication) of the American Embassy in Hanoi entitled "What is Democracy?", and later in order to warmly respond to the guidelines to expand democracy of General Secretary Nong Duc Manh, my husband wrote an article entitled "Hopeful Signs for Democracy in Vietnam", and sent this article to the General Secretary of the Party and a number of Vietnamese public opinion agencies.

On 27 March 2002, PSS agents came to search the house, and suddenly arrested my husband without reason. During the evening of that same day, a Lieutenant Colonel Le Van telephoned to demand that I remain quiet and especially that I maintain secrecy on the matter, and not speak to anyone. Throughout the following week I never received a copy of an arrest order or any document reporting to the family what violation at what level had been

committed by my husband or his whereabouts. Only on 6 April 2002 did I receive a report number 215/ANDT by Nguyen Ngoc Thuan, Deputy Commander of the PSS Security Investigations Unit reporting to me that my husband was under temporary custody (not temporary arrest) due to actions of gathering and supplying information/documents for foreign nation(s) to use to oppose the Socialist Republic of Viet Nam, and was imprisoned at B14, Thanh Liet, Thanh Tri (Hanoi). As of today, I have not yet received a report about the temporary imprisonment of my husband, for what period, etc. I keep asking myself if a person's life is seen to be so cheap, that when my husband was under temporary imprisonment and not temporary custody, when the two are totally different, that I have never received any official report!

My husband is a medical doctor and graduated in 1992 from the Hanoi Medical University, and works for a foreign pharmaceutical company. I am certain in my belief that he could never possess any information that could be called "national secrets" which he could unintentionally or deliberately use to commit espionage.

My husband is a dutiful person, a good husband, an exemplary father who loves his children very much, a warm and faithful friend. Above all, he is an intellectual citizen, has a deep patriotism, and always is concerned about the fate of the nation and the development of the people, and it was mainly because of that my husband wanted to contribute moderately and appropriately to the Party through his article to exchange views with his friends. I see my husband's actions as never being of the nature to incite, never in violation of the Constitution or the law, and quite to the contrary, an expression of patriotism and responsibility to the nation.

The sudden arrest of my husband on 27 March 2002 was a violation of the 1992 Constitution of the Socialist Republic of Vietnam, specifically:

Article 71: "The citizen shall enjoy inviolability of the person and the protection of the law with regard to his life, health, honour and dignity.

No one can be arrested in the absence of a ruling by the People's Court, a ruling or sanction of the People's Office of Supervision and Control, except in cases of flagrant offenses. Taking a person into, or holding him in, custody must be done with full observance of the law. It is strictly forbidden to use all forms of harassment and coercion, torture, violation of his honour and dignity, against a citizen".

Furthermore, I recognize a vagueness, an uncleanness, of the investigative unit in the arrest and detention of my husband. Why arrest my husband without an order of the court or the Supreme People's Investigative Court? Why demand I maintain secrecy and not speak with anyone about my husband's arrest, even with close family members on either side of the family?

Up until now three months have passed, and I have received no news of my husband and have not been allowed to visit him. My two young sons do not understand why their father

suddenly disappeared, they were frightened by the scene of the house being tossed after the search order, and they ran in panic through the house hoping to find their father. Myself, I was very disturbed at the bad events, and ran all over the city that evening and went to the investigation unit in hope of meeting my husband. But it was hopeless ... my husband was taken to a place unknown to me!

Anyone with a warm, happy and loving family must be sympathetic to my situation, a state of suspense with my insides twisted tight when I think of my husband being imprisoned without reason. Everyone reserves their love for children who must certainly love and think of their father and fear the situation facing the family when suddenly they are left without their father.

The arrest and imprisonment of my husband was done without evidence, not in public, and seized our family's irreplaceable material and moral support.

Therefore, I sincerely request that you investigate the legality of my husband's arrest, grant permission for me to visit my husband, and if there is any evidence of a crime having been committed by my husband, he should be brought before a court for public trial, and if not, he must be given his freedom so that he might return to his work, continue his good intentions in his specialty, and care for his family and children.

I am infinitely grateful for the use of your valuable time for my request, so that I can again have an opportunity to continue to believe in the policies of the Party and the Nation.

Hanoi 20/6/2002
Signature of applicant
(signature)
Vu Thuy Ha