



# VIETNAM

SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE  
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# 1. INTRODUCTION

This submission was prepared in advance of the review of Vietnam's third periodic report by the Human Rights Committee in March 2019.

Vietnam's review by the Committee provides an important opportunity for a public examination of the country's human rights record. Since it was last reviewed in 2002, Vietnam has taken steps to strengthen human rights guarantees, including by adopting constitutional amendments in 2013. Yet the lack of progress in many other areas raises serious human rights concerns under the International Covenant on Civil and Political Rights (the Covenant), including the lack of protection against torture and other ill-treatment in national law, and a new Cybersecurity Law that negatively impacts the rights to freedom of expression and to privacy. Of equal concern are unfair trials and the imprisonment of prisoners of conscience, torture and other ill-treatment in detention, solitary confinement, punitive prison transfers, and increasing restrictions on the right to freedom of religion and belief.

In this submission, Amnesty International assesses key aspects of the national human rights framework, evaluates the human rights situation on the ground according to the Covenant, and makes relevant recommendations to the authorities.

## 2. CYBERSECURITY LAW (ARTICLES 17 & 19)

Under Vietnam's new Cybersecurity Law, which was passed by the National Assembly on 12 June 2018 and officially took effect on 1 January 2019, the authorities now have overly broad powers to control and restrict access to the last safe space for freedom of expression in the country: the internet.<sup>1</sup> The law gives the authorities the power to force technology companies to hand over potentially vast amounts of data, including personal information, and to censor users' posts.

Many of the law's provisions are vaguely worded and allow for broad interpretation by the authorities. Amnesty International is particularly alarmed that provisions in Articles 8 and 16 could lead to people being arbitrarily prosecuted for the peaceful exercise of their human rights, under extremely broad and vague offenses such as "negating the revolutionary achievement" or giving "misleading information causing confusion among the people."<sup>2</sup> The new Cybersecurity Law has already been used by the Vietnamese authorities to harass, intimidate and arrest people, and it threatens to silence critics, chilling healthy debate within the society.

It should be noted that persecuting people for their peaceful activism on the internet is not a new phenomenon in Vietnam. In 2017, for example, the authorities arrested some 30 individuals simply for using the internet to promote human rights.<sup>3</sup>

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<sup>1</sup> <https://www.tracuuphapluat.info/2018/08/luat-ninh-mang-tieng-anh-law-on.html>.

<sup>2</sup> Ibid.

<sup>3</sup> Since the Formosa environmental disaster in 2016, the authorities had responded with threats, harassment, intimidation and physical violence against human rights defenders and activists. For more information, see, for example:

<https://www.amnesty.org/en/documents/asa41/5559/2017/en/>

<https://www.amnesty.org/download/Documents/ASA4164032017ENGLISH.pdf>

<https://www.amnesty.org/download/Documents/ASA4168552017ENGLISH.pdf>

<https://www.amnesty.org/download/Documents/ASA4164032017ENGLISH.pdf>

<https://www.amnesty.org/download/Documents/ASA4166162017ENGLISH.pdf>

<https://www.amnesty.org/download/Documents/ASA4165592017ENGLISH.pdf>

## RECOMMENDATIONS

Amnesty International recommends that Vietnam:

- Amend the Cybersecurity Law, including by eliminating the vague and overbroad offenses set out in Articles 8 and 16, to comply fully with international human rights law;
- Fully and effectively respect, protect, promote and fulfil the right to online freedom of expression, and the right to privacy and other human rights.

# 3. RESTRICTIONS ON FREEDOM OF EXPRESSION: HUMAN RIGHTS DEFENDERS, ACTIVISTS, AND BLOGGERS (ARTICLE 19)

Vietnam's 2013 Constitution guarantees, in Article 25, that "the citizen shall enjoy the right to freedom of opinion and speech, freedom of the press, to access to information, to assembly, form associations and hold demonstrations" and further, in Article 24, "freedom of belief and religion" and the equality of all religions before the law. In practice, however, the exercise of these rights is severely restricted and subject to the caveat that their exercise cannot appear to undermine the pre-eminence of the Communist Party of Vietnam (CPV) in any aspects of public or private life.<sup>4</sup>

There is a small but committed independent civil society in Vietnam, including individuals and informal groups that question what they considered to be the overwhelming hegemony of the CPV, raise awareness about human rights violations and abuses in society, and advocate for human rights. They face significant challenges in their human rights work and some of them suffer devastating consequences for it. Since the beginning of 2015, there has been an alarming increase in physical attacks on human right defenders, with activists brutally assaulted in broad daylight by police and plainclothes officers.<sup>5</sup>

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<sup>4</sup> Article 15(4) of the Constitution states that the "practice of human rights and citizens' rights cannot infringe national interests and legal and legitimate rights and interests of others." In reality, "national interests" and the interests of the CPV are viewed as one and the same.

<sup>5</sup> See Civil Rights Defenders, "Threats and Attacks Against Human Rights Defenders in Vietnam," 5 February 2015 (available at <http://www.civilrightsdefenders.org/news/threats-and-attacks-against-human-rights-defenders-in-vietnam/>).

Arrests, prosecutions, and convictions are an even more established means of abusing, harassing and intimidating the country's human rights defenders. Amnesty International is aware of at least 84 prisoners of conscience currently behind bars in Vietnam<sup>6</sup>. In 2017, according to local rights group Defend the Defenders, at least 29 activists were arrested, and others went into hiding after arrest warrants were issued.<sup>7</sup> 2018 was a shocking year when at least 51 activists were arrested or sentenced to imprisonment. Most of them were charged under vaguely worded provisions of the 1999 Penal Code or the amended 2015 Penal Code or held on other spurious charges.<sup>8</sup>

At least five members of the independent Brotherhood for Democracy, co-founded by human rights lawyer and prisoner of conscience Nguyễn Văn Đài, were arrested between July and December 2017. They were charged under Article 79 of the 1999 Penal Code (activities aimed at overthrowing the People's Administration), which carries a punishment of up to life imprisonment or the death penalty. Several of them are previous prisoners of conscience.

Bloggers and pro-democracy activists have been particularly targeted, as have the social and environmental activists who campaigned in the aftermath of the 2016 Formosa Plastics toxic spill, an incident that killed tonnes of fish and destroyed the livelihoods of thousands of people.<sup>9</sup>

## RECOMMENDATIONS

Amnesty International recommends that Vietnam:

- Immediately and unconditionally release all those held solely for exercising their right to freedom of expression;
- Take concrete measures to respect, protect, promote and fulfil the rights to freedom of expression, association, and peaceful assembly, including by removing barriers that prevent the creation and operation of independent civil society groups;
- Publicly recognize the rights of human rights defenders and provide an environment in which they can carry out their human rights work safely and without fear of reprisals;
- Ensure thorough, prompt, impartial and independent investigations into all reports of human rights violations against human rights defenders and bring to justice, in fair trials, those suspected of criminal responsibility for any related offences;
- Fully co-operate with the UN human rights mechanisms, in particular the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, enabling them to conduct visits in accordance with their respective mandates.

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<sup>6</sup> See the definition of 'prisoners of conscience' in Amnesty International, Detention and Imprisonment, [www.amnesty.org/en/what-we-do/detention/](http://www.amnesty.org/en/what-we-do/detention/).

<sup>7</sup> <https://www.amnesty.org/en/countries/asia-and-the-pacific/viet-nam/report-viet-nam/>

<sup>8</sup> See <https://www.wipo.int/edocs/lexdocs/laws/en/vn/vn086en.pdf>; <https://www.wipo.int/edocs/lexdocs/laws/en/vn/vn017en.pdf>.

<sup>9</sup> Timeline: The Formosa Environmental Disaster (available at <https://www.thevietnamese.org/2017/11/timeline-the-formosa-environmental-disaster/>).

# 4. ARBITRARY RESTRICTIONS ON FREEDOM OF PEACEFUL ASSEMBLY, AND EXCESSIVE USE OF FORCE (ARTICLES 7 & 21)

The authorities routinely use unnecessary and excessive force to disperse or prevent peaceful gatherings and protests.

In February 2017, for example, police and plainclothes men attacked around 700 mainly Catholic peaceful protesters gathered in Nghệ An province, who had been planning to present a set of legal complaints against Formosa Plastics (see also above). Several people were injured and required hospital treatment, and others were arrested.<sup>10</sup>

In June 2018, a social movement was created when the National Assembly moved to pass controversial bills on cybersecurity and the Special Economic Zone. Tens of thousands of people took to the streets across Vietnam to protest the two proposed laws in June and July 2018, and hundreds of people were beaten by law enforcement. Amnesty International received many reports from local sources alleging abuses, including arbitrary detention, beatings, carried out by officials in Hanoi, Ho Chi Minh City, and provincial cities in the south of Vietnam.

## RECOMMENDATIONS

Amnesty International recommends that Vietnam:

- Immediately and unconditionally release those detained or imprisoned simply for exercising their right to peaceful assembly;
- Ensure prompt, impartial, independent and effective investigations into all reports of unnecessary and excessive use of force by the police and bring suspected perpetrators to justice in fair trials, including for the attack in February 2017 on peaceful protesters in Nghệ An province marching against Formosa Plastics;

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<sup>10</sup> Amnesty International, Viet Nam: Hundreds of peaceful marchers attacked by police, 20 February 2017 (ASA 41/5728/2017).

- Ensure that policing of demonstrations is consistent with national law and international human rights standards, such as the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, including by providing appropriate training of police and other security forces.

# 5. RESTRICTIONS ON THE RIGHT TO FREEDOM OF RELIGION AND BELIEF (ARTICLE 18)

Vietnam is a country with a vast diversity of religion. Yet despite the 2013 Constitution's guarantee that everyone is free to practise his or her faith, the government imposes a range of restrictions on religious activities. A 2016 law on religion and belief provides the legal basis for these restrictions.<sup>11</sup>

According to the 2016 law, religious groups need to register with the authorities in order to conduct religious activities. Any groups that do not register are considered illegal, and often face intimidation, harassment and restrictions.

Indigenous groups such as the H'mong in northern Vietnam, the Jarai, Ede and other groups in highland central Vietnam, and the Khmer Krom in the southern part of the country, face severe restrictions on their religious activities. Amnesty International has documented numerous cases in those areas of restrictions on religious freedom.

The H'mong people in northern Vietnam may face forced eviction if they belong to a non-registered religious group. The Jarai, Ede, Ha Lang, and other ethnic groups in highland central Vietnam have seen their land confiscated, suffered the denial of family registration, and or faced other persecution under the claim that they are "destroying state unity." Monks from the Khmer Krom community have faced intimidation and harassment for teaching religion in their own temples without the permission of the local authorities.

The systematic restrictions on religious freedom that target indigenous groups has resulted in a wave of people fleeing Vietnam to seek asylum in neighbouring states. According to a credible and independent source, there are currently at least 1,500 people from Vietnam seeking asylum in Thailand.

## RECOMMENDATIONS

Amnesty International recommends that Vietnam:

- Amend the 2016 law on religion and belief in a manner consistent with Vietnam's obligations under article 18 of the ICCPR to guarantee the right to freedom of religion or belief;
- End all form of restrictions on religious activities and stop using religious groups' registration status as pretext for persecution.

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<sup>11</sup> <https://luatvietnam.vn/chinh-sach/luat-tin-nguong-ton-giao-2016-111021-d1.html#noidung>.



# 6. UNFAIR TRIALS (ARTICLE 14)

Trials of dissidents and other activists routinely fail to meet international standards of fairness, including by denying the presumption of innocence and the right to an adequate legal representation and defence.

Lawyers defending clients who are accused of national security-related crimes often criticize the courts' lack of independence, believing that outcomes are decided in advance. Dissidents, human rights defenders, and activists normally receive harsh sentences with lengthy jail time, even when no required evidence of guilt is presented at trial.

Below are a few of the many cases of unfair trials:

- Human rights defender and blogger Nguyễn Ngọc Như Quỳnh, also known as Mẹ Nấm, (Mother Mushroom), was sentenced to 10 years' imprisonment in June 2017 for "conducting propaganda" (Article 88 of the 1999 Penal Code). Nguyen Ngoc Nhu Quynh was not allowed to meet with her lawyers before the trial, and only three of the five lawyers she had chosen to represent her were permitted to attend the hearing.
- In July 2017, land and labour activist Trần Thị Nga received a nine-year sentence on the same charge, with a further five years' house arrest upon release.<sup>12</sup> Lawyers of Tran Thi Nga reported that their computers and phones were confiscated by security guards when they attended the trial, making it extremely difficult for them to defend their client, as they were unable to access important documents related to the case.
- In October 2017, student Phan Kim Khánh was sentenced to six years' imprisonment and four years' house arrest upon release, after conviction under Article 88 of the 1999 Penal Code. He had criticized alleged corruption and lack of respect for the right to freedom of expression in Vietnam in blogs and on social media. He was also accused of being in contact with "reactionaries" overseas. The trial lasted just a few hours, raising concerns that his lawyer was not allowed adequate time and facilities to prepare and present the case.
- In August 2018, pro-democracy advocate Lê Đình Lương was sentenced to 20 years' imprisonment upon his conviction under Article 79 of the 1999 Penal Code. Lê Đình Lương's lawyer told the media that the trial was unfair because two witnesses said that they were beaten during interrogation and forced to give false testimony implicating the defendant. Instead of barring the testimony and launching an investigation into the witnesses' alleged torture, the judge issued the verdict right away.

## RECOMMENDATION

Amnesty International recommends that Vietnam:

- Ensure that fair trial guarantees and due process rights as provided in international standards are fully respected and upheld in all cases, including for all persons arrested and convicted on politically-motivated charges.

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<sup>12</sup> Amnesty International, Viet Nam: Female activist sentenced to nine years in prison, 31 July 2017 (ASA 41/6833/2017).

# 7. PRISONERS OF CONSCIENCE (ARTICLE 9)

As of early 2019, over 100 prisoners of conscience have been detained or imprisoned. Among them are bloggers, human rights defenders working on land and labour issues, political activists, religious followers, and members of minority ethnic groups.

In some cases, the authorities have granted early release to prisoners of conscience who have agreed to go into exile:

- Đặng Xuân Diệu, a Catholic social activist and blogger, who was imprisoned in 2011 on charges of “destroying national unity,” was released in January 2017 after serving six years of a 13-year prison sentence. He was immediately flown to exile in France. He had been tortured while imprisoned.
- In July 2017, Pastor Nguyễn Công Chính was released four years before the end of his 11-year sentence and immediately flown to exile in the USA. He too had been tortured while imprisoned.
- In October 2018, blogger Nguyễn Ngọc Như Quỳnh, aka Mother Mushroom, was released after spending two years in jail. She was sent to the airport directly from her cell and went into exile in the US with her family.

Prisoners of conscience come from all regions of the country and from diverse backgrounds and walks of life. They include CPV cadres who have spoken out against the Party’s policies and practices, farmers who have stood up to defend their community’s land, labour activists who have advocated for the rights of factory workers, the lawyers who have defended them, and independent journalists and bloggers who have sought to report on their cases or published articles critical of government or advocating for institutional reforms.

## RECOMMENDATIONS

Amnesty International recommends that Vietnam:

- Immediately and unconditionally release all prisoners of conscience;
- Stop arresting and prosecuting men and women solely for the peaceful exercise of their human rights, including advocacy for human rights, religious freedom, and workers’ rights.

# 8. TORTURE AND OTHER ILL-TREATMENT IN DETENTION (ARTICLE 7)

Vietnam's 2013 Constitution guarantees that "[e]veryone ... is protected against torture, violence, coercion, corporal punishment or any form of treatment harming his or her body and health."<sup>13</sup> In practice, however, this prohibition means little, and torture and other ill-treatment persist.

A new penal code took effect on 1 January 2018 that includes improvements over the 1999 version of the code with regard to torture and other ill-treatment,<sup>14</sup> but that still does not satisfy international legal requirements. Unlike the 1999 Penal Code, which did not use the terms "torture" or "cruel, inhuman or degrading treatment or punishment," the 2015 Penal Code includes an explicit prohibition on torture, albeit one using different wording than the constitutional guarantee.<sup>15</sup>

Amnesty International has documented a number of cases involving physical violence against prisoners that constitutes torture and other ill-treatment. In most cases, the violence took place during the pre-trial phase, but in a few it occurred after conviction. Suspected perpetrators include police and prison officials, as well as "antennae" (prisoners who abuse other prisoners at the instigation of or with the consent of prison staff).

- Prisoner of conscience Nguyễn Văn Hóa told his family in a letter on 19 September 2018 that he was beaten frequently after his arrest. He said investigators beat him and forced him to give false testimony. He publicly denounced this abuse at the trial of prisoner of conscience Lê Đình Lương in August 2018, where he served as a witness. Instead of launching an investigation, however, the presiding judge ignored Nguyễn Văn Hóa's claim, and Nguyễn Văn Hóa said that he was severely beaten immediately after the trial.

Another common tactic that prison authorities in Vietnam often use to punish prisoners of conscience is to force them to share a cell with violent or aggressive inmates. Such inmates have allegedly been told by prison guards to beat, harass, and intimidate prisoners of conscience.

- In August 2018, prisoner of conscience Trần Thị Nga called her family and informed them that her life was in danger. She said that she was being intimidated and harassed by fellow inmates continuously, and that when she reported the situation to prison guards, they failed to respond. One of the inmates had beaten her and threatened to kill her.

Failing to provide medical care to prisoners of conscience is a common practice. Amnesty International has received numerous reports from family members of prisoners of conscience expressing grave concerns regarding the ill health of their loved ones. In general, prisoners of conscience have little or no access to adequate medical and health care. Some manage to obtain basic medications from poorly-equipped clinics; others report that they endure illnesses without being provided any medicine or care.

- Trần Anh Kim, 70, is a prisoner of conscience who was arrested and sentenced to 13 years in prison in 2015. Trần Anh Kim has suffered a number of illnesses during his incarceration, including high blood pressure and a prostate infection. He also suffers from diminishing eyesight and serious dental

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<sup>13</sup> Article 20 of the Constitution of the Socialist Republic of Vietnam, as amended, adopted by the National Assembly on 28 November 2013. An unofficial English translation of the amended constitution by International Democracy and Electoral Assistance (IDEA) is available at [http://www.constitutionnet.org/files/translation\\_of\\_vietnams\\_new\\_constitution\\_enuk\\_2.pdf](http://www.constitutionnet.org/files/translation_of_vietnams_new_constitution_enuk_2.pdf).

<sup>14</sup> See Law No. No. 100/2015/QH13, <https://www.wipo.int/edocs/lexdocs/laws/en/vn/vn086en.pdf>.

<sup>15</sup> See Law No. 15/1999/QH10, <http://vietnamlawenglish.blogspot.com/1999/12/vietnam-criminal-penal-code-1999-law-no.html>.

problems. Although he has requested medical care many times, he has not received proper treatment.

- The health of prisoner of conscience Nguyễn Văn Túc deteriorated rapidly after his arrest in September 2017. He now says that he is fainting on a daily basis; he suffers from severe haemorrhoids, and his eyesight is severely diminished. Instead of providing adequate health care, the prison authorities have banned him from receiving supplies from his family, forcing him to endure the cold winter without warm clothing.

## RECOMMENDATIONS

Amnesty International recommends that Vietnam:

- Ensure the right to an effective remedy including access to justice, adequate compensation, reparations, restitution, rehabilitation, satisfaction and guarantees of non-repetition to the victims of torture and other ill-treatment and their dependents in accordance with Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other international standards, including;
- Take measures to end abusive practices by “antennae” prisoners and ensure allegations of violence by other prisoners are promptly, thoroughly and effectively investigated and, where sufficient admissible evidence exists, suspected perpetrators prosecuted;
- Ensure all prisoners have access to family and friends, lawyers of their choice, adequate medical care, and independent courts during custody, detention and imprisonment, and end the practice of incommunicado detention;
- Ensure the provision of adequate health care to all persons deprived of their liberty, including prompt access to medical attention in urgent cases and access to specialized treatment where necessary;
- Ensure accurate information about arrests and whereabouts of detainees is made available immediately to family, friends, legal counsel and courts;
- Provide access for independent monitoring bodies to all detention centres and prisons, and to all persons deprived of their liberty;
- Provide effective training to all officials involved in the custody, interrogation or medical care of prisoners specifying that all acts of torture and other ill-treatment are criminal acts.

## 8.1 SOLITARY CONFINEMENT

Solitary confinement is used against prisoners of conscience for a number of reasons: to exert pressure on them to “confess” to the crimes with which they are charged, to punish them for withstanding this pressure and disputing the charges against them, for refusing to submit to “re-education,” or for raising their voices against the ruthless practices and appalling conditions inside Vietnam’s prison system.<sup>16</sup>

Prisoners of conscience have described to Amnesty International their experience of months of solitary confinement in dark, fetid cells without access to fresh air, clean water, or sanitation. In an interview in 2016, Dar, an ethnic minority Christian, told Amnesty International that for 10 months he lived in complete darkness in solitary confinement not knowing if it was night or day, his isolation punctuated only by interrogation sessions outside his cell or beatings in the cell. He said that the only thing that prevented him from causing harm to himself during this desperate period was his belief in God.

Under the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), solitary confinement beyond 15 consecutive days constitutes cruel, inhuman or degrading treatment or punishment, and may amount to torture.<sup>17</sup> In the case of Dar it clearly did.

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<sup>16</sup> <https://www.amnesty.org/download/Documents/ASA4141872016ENGLISH.PDF>

<sup>17</sup> UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rules 43 and 44.

## RECOMMENDATION

Amnesty International recommends that Vietnam:

- End the practise of solitary confinement pending the release of all prisoners of conscience.

## 8.2 PUNITIVE PRISON TRANSFERS

A central component of Vietnam's system of torture and other ill-treatment of prisoners of conscience is the practice of transferring individuals between different detention centres and prisons throughout the period of their incarceration. The practice is brutal in its execution and often leaves prisoners hundreds or even thousands of kilometres away from their families and support networks, cut off from vital supplies of food, clothing and medication.

The practice is common in cases of prisoners of conscience who withstand pressure to "confess" to their alleged crimes, and to those who engage in activism behind bars. The transfers are invariably not announced in advance and the prisoners are moved without knowing where they are going or how long the journey is likely to take. The conditions during the transfers in cases Amnesty International has documented were appalling and amounted to torture and other ill-treatment. In none of the cases were the families informed of the transfer, either before or after it took place.

International standards on the treatment of prisoners require that prisoners are allocated, to the extent possible, to prisons close to their homes;<sup>18</sup> the transfers documented by Amnesty International often left prisoners hundreds and even thousands of kilometres from home.

## RECOMMENDATION

Amnesty International recommends that Vietnam:

- End the practise of punitive prison transfers pending the release of all prisoners of conscience.

# 9. THE DEATH PENALTY (ARTICLE 6)

Figures on the use of the death penalty continue to be classified as a state secret, and human rights organisations face serious obstacles to obtaining accurate statistics on the practice. However, in February 2017, a report by the Ministry of Public Security revealed that 429 prisoners were executed between 8 August 2013 and 30 June 2016, at an average rate of 147 executions per year. The report also stated that five new lethal injection centres were being built.<sup>19</sup>

Amnesty International gathered information on only two executions during 2017, both for the crime of murder, but believes the total number of executions to have been significantly higher. At least 35 new death sentences are known to have been imposed in 2017, including one for murder, three for embezzlement and 31 for drug trafficking, and at least 63 in 2016, including 54 for drug-related offences. According to official figures, 681 people were under sentence of death as of 1 July 2016.<sup>20</sup> According to a report sent to the

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<sup>18</sup> The Nelson Mandela Rules, Rule 59, and UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, UN doc. A/RES/43/173, 9 December 1988, Principle 20.

<sup>19</sup> Report of the Ministry of Public Security, No.05/BC-BCA-C81, 4 January 2017.

<sup>20</sup> Amnesty International, Death sentences and executions in 2016 (ACT 50/5740/2017), April 2017, <https://www.amnesty.org/en/documents/act50/5740/2017/en/>

Vietnamese National Assembly in November 2018, Vietnam executed 85 people in 2018, the number of new sentence was not mentioned exactly but it was said to be more than the previous year 122 sentences.

On 27 November 2015, the National Assembly voted in favour of removing seven crimes from the list of offences that can be punished by death, bringing the total number of capital offences down from 22 to 15.<sup>21</sup> The amendments also require the commutation of the death penalty for pregnant women, women with children under the age of 3, people aged 75 and over; and people sentenced to death for embezzlement of assets or taking bribes who return at least three quarters of the embezzled assets. The reduction in the number of capital crimes and provisions for commutations represent a positive development; however, other offences not involving “the most serious crimes,” to which the use of the death penalty must be restricted under international law, remain punishable by death. These include drug trafficking and embezzlement. Amnesty International is opposed to the death penalty for all crimes and in all circumstances.

## RECOMMENDATIONS

Amnesty International recommends that Vietnam:

- Abolish the death penalty for all crimes;
- Pending full abolition of the death penalty, it should:
  - Establish an official moratorium on executions;
  - Commute all death sentences to terms of imprisonment;
  - Review the cases of all death row prisoners with a view to commuting the death sentences, in particular where the death penalty has been imposed for drugs offences or economic crimes or where the trial did not meet the most rigorous international fair trial standards;
  - Bring provisions in national legislation that allow for the death penalty in line with international law and standards, including by removing from its scope any offence other than intentional killing;
  - Ensure that in proceedings related to offences where the death penalty might be imposed that the most rigorous internationally recognized standards for fair trial are respected, including by providing all death row prisoners, regardless of means, with adequate and effective legal aid to pursue any appeals against their conviction and death sentence;
  - Regularly publish full and detailed information on death sentences and executions, disaggregated by crime, region, gender, ethnic group, which can contribute to a public debate on the use of the death penalty;
- Ratify, without reservations, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

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<sup>21</sup> The offences that were no longer punishable by death as of 1 July 2016 are: plundering property; destroying important national security works and/or facilities; disobeying orders in the military; surrendering to the enemy, which is applicable in the army; undermining peace, provoking aggressive wars; crimes against mankind; and war crimes.

# ANNEX

## AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE<sup>22</sup>

### **Freedom of expression/Prisoners of conscience**

*Viet Nam: Open letter to Facebook on proposed cybersecurity law* (Index number: ASA 41/8559/2018)

*Viet Nam: Prisoners of conscience in Viet Nam* (Index number: ASA 41/8162/2018)

*Viet Nam: Missing human rights defender at risk of torture: Nguyễn Bắc Truyển* (Index number: ASA 41/6964/2017)

*Viet Nam: Further information: Maximum prison sentence for anti-Formosa activist: Hoàng Đức Bình* (Index number: ASA 41/7962/2018)

*Viet Nam: Four peaceful activists arbitrarily arrested in connection with long-detained human rights lawyer* (Index number: ASA 41/6855/2017)

*Viet Nam: Further information: Female activist sentenced to nine years in prison: Trần Thị Nga* (Index number: ASA 41/6833/2017)

*Viet Nam: Vietnamese human rights blogger should be immediately and unconditionally released* (Index number: ASA 41/6616/2017)

*Vietnam: Crackdown on Formosa spill activists continues: Hoàng Đức Bình and Bạch Hồng Quyền* (Index number: ASA 41/6403/2017)

*Viet Nam: Open letter on prisoner of conscience Trần Huỳnh Duy Thức* (Index number: ASA 41/6234/2017)

*Viet Nam: Hundreds of peaceful marchers attacked by police* (Index number: ASA 41/5728/2017)

*Viet Nam: Three human rights defenders held incommunicado* (Index number: ASA 41/5559/2017)

*Viet Nam: Incommunicado detention of human rights lawyer and trial of pro-democracy activists shows disdain for international human rights law* (Index number: ASA 41/5377/2016).

*Viet Nam: Crackdown on human rights amidst Formosa related activism* (Index number: ASA 41/5104/2016)

*Viet Nam: Further information: Jailed activist denied proper medical treatment* (Index number: ASA 41/4838/2016)

*Viet Nam: Open letter to the president calling for the release of prisoners of conscience* (Index number: ASA 41/4797/2016)

*Viet Nam: Conviction of youth activists highlights authorities' retrograde attitude to human rights* (Index number: ASA 41/4725/2016)

*Viet Nam: Prisoner of conscience subject to ill-treatment: Trần Huỳnh Duy Thức* (Index number: ASA 41/4704/2016)

*Viet Nam: Series of attacks on political activists, human rights defenders and their relatives must be investigated* (Index number: ASA 41/4533/2016)

*Viet Nam: List of prisoners of conscience* (Index number: ASA 41/4389/2016)

*Viet Nam: Convictions of Nguyen Hu'u Vinh and Nguyen Thi Minh Thuy are an outrageous contravention of freedom of expression* (Index number: ASA 41/3702/2016)

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<sup>22</sup> All these documents are available on Amnesty International's website:  
<https://www.amnesty.org/en/countries/asia-and-the-pacific/viet-nam/>

*New Vietnamese leadership must urgently rehabilitate country's appalling human rights record* (Index number: ASA 41/3350/2016)

*Vietnam: Human rights activist held, at risk of torture* (Index number: ASA 41/3126/2015)

*Viet Nam: Immediately and unconditionally release democracy activist Nguyễn Việt Dũng* (Index number: ASA 41/3093/2015)

*Viet Nam: International calls for immediate and unconditional release of prisoner of conscience Thich Quang Do* (Index number: ASA 41/2901/2015)

*Viet Nam: Prisoner of conscience Thich Quang Do must be released* (Index number: ASA 41/2898/2015)

*Viet Nam: Demand release of blogger and assistant* (Index number: ASA 41/2801/2015)

*Viet Nam: Time to live up to human rights commitments and release all prisoners of conscience* (Index number: ASA 41/2501/2015)

*Viet Nam: All prisoners of conscience must be immediately and unconditionally released* (Index number: ASA 41/2360/2015)

*Vietnam: Letter to the president calling for the release of prisoners of conscience* (Index number: ASA 41/2296/2015)

*Viet Nam: Release Tran Huynh Duy Thuc* (Index number: ASA 41/1731/2015)

#### **Freedom of religion or belief**

*Viet Nam: Open letter to the president of the national assembly on vietnam's draft law on belief and religion* (Index number: ASA 41/4950/2016)

*Viet Nam: Minority group's protest met with violence* (Index number: ASA 41/4509/2016)

*Viet Nam: Joint statement of concern on draft law on belief and religion* (Index number: ASA 41/2803/2015)

#### **Death penalty**

*Viet Nam: 10-year death row case pushed for execution: Ho Duy Hai* (Index number: ASA 41/8004/2018)

*Viet Nam: Halt imminent execution of Le Van Manh and order investigation into allegations of torture* (Index number: ASA 41/2737/2015)

#### **Torture and ill-treatment**

*Viet Nam: Open letter calling for investigation into the death in custody of Nguyen Huu Tan* (Index number: ASA 41/6657/2017)

*Viet Nam: Activists held incommunicado at risk of torture* (Index number: ASA 41/5190/2016)

*Viet Nam: Prisons within prisons: torture and ill-treatment of prisoners of conscience in Viet Nam* (Index number: ASA 41/4187/2016)

*Viet Nam: Government crackdowns on peaceful demonstrations with range of rights violations, including torture and other ill-treatment* (Index number: ASA 41/4078/2016)

*Alleged torture of Mrs. Tran Thi Hong must be investigated* (Index number: ASA 41/3911/2016)



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# VIET NAM

## SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE

125<sup>TH</sup> SESSION, 4-29 MARCH 2019

This submission was prepared in advance of the review of Vietnam's third periodic report by the Human Rights Committee in March 2019.

Vietnam's review by the Committee provides an important opportunity for a public examination of the country's human rights record. Since it was last reviewed in 2002, Vietnam has taken steps to strengthen human rights guarantees, including by adopting constitutional amendments in 2013. Yet the lack of progress in many other areas raises serious human rights concerns under the International Covenant on Civil and Political Rights (the Covenant), including the lack of protection against torture and other ill-treatment in national law, and a new Cybersecurity Law that negatively impacts the rights to freedom of expression and to privacy. Of equal concern are unfair trials and the imprisonment of prisoners of conscience, torture and other ill-treatment in detention, solitary confinement, punitive prison transfers, and increasing restrictions on the right to freedom of religion and belief.

In this submission, Amnesty International assesses key aspects of the national human rights framework, evaluates the human rights situation on the ground according to the Covenant, and makes relevant recommendations to the authorities.