

.....SOCIALIST REPUBLIC OF VIET NAM

The death penalty - recent developments

In December 1999 the National Assembly approved amendments to the Vietnamese Penal Code which included reducing the number of offenses punishable by the death penalty from 44 to 29. Although the new legislation does not come into effect until July 2000, a directive was issued in January 2000 instructing judges not to impose or uphold the death penalty on people convicted for the 13 previously capital offenses with immediate effect. Amnesty International welcomes this as a positive step towards reducing the application of the death penalty in Viet Nam. However, the organization remains concerned that there is still a broad range of offenses which are punishable by the death penalty, and that according to recent statistics the death penalty continues to be imposed at a high rate, with 194 people sentenced to death during 1999 alone. There is also concern that the authorities do not, other than in exceptional circumstances, make public information about whether executions have been carried out. Amnesty International believes that they are carried out on a regular basis.

The revised Criminal Code was promulgated by the National Assembly on 21 December 1999 and by President Tran Duc Luong on 4 January 2000. Apart from reducing the number of capital offenses, it also includes other amendments and additions. Full details about the changes are not yet available. According to a report in the official English-language *Viet Nam News* on 25 January 2000, the crimes which are no longer capital offenses include:

"violating national territorial security; jail breaking; making, storing, using, stealing, or selling military weapons and equipment and military technology; cross-border smuggling of goods and money; destruction of bank notes; theft of property; destruction or deliberate damage of property, or abusing vested power to steal private property; faking goods and dealing in fake goods; using force or seduction to make others use drugs illegally;

...serving as an intermediary in bribery; abandoning assigned battle positions; and recruiting people to work as hired soldiers, or being a hired soldier."

Remaining capital offenses

Twenty-nine offenses in the Criminal Code now carry the death penalty. These include crimes against national security such as treason, taking action to overthrow the government, espionage, rebellion, banditry, terrorism, sabotage, hijacking, destruction of national security projects; undermining peace, war crimes and crimes against humanity. They also include manufacturing, concealing and trafficking in narcotic substances; murder, rape, robbery, embezzlement, and fraud.

One amendment to the Criminal Code reported in December 1999 states that officials charged with corruption involving sums of 300 million dong (approximately US\$21,340) and above are now liable to face the death penalty. The previous punishment is reported as being from 20 years to life imprisonment.

Death sentences and executions during 1999

According to an official of the Supreme People's Court 194 death sentences were passed last year. Detailed information about these death sentences has not been made public, except that 82 were for drug offenses, and eight for involvement in fraud and corruption. To Amnesty International's knowledge, this is the highest number of death sentences reported annually in decades.

No official information has been made public about the total number of executions during 1999. Amnesty International has recorded eight executions reported in the media.

week beginning 4 January 1999	Tran Van Thuan and Huynh Te Cam were executed in Ha Noi in front of thousands of people after being found guilty of subversive activities, including a grenade attack on a park in which 18 people were injured
23 January 1999	Tan Kwa Eng, a 32-year-old Singaporean national, was executed for heroin trafficking
4 May 1999	Le Thi Thuy, a 22-year-old woman, was executed in public at the Cau Nga execution site, Tu Liem district in Ha Noi for the murder of a child
17 August 1999	Do Thuong, a former professor was executed at the Thu Duc execution site, Ha Noi for the murder of a well-known academic

17 August 1999	Le Van Be was executed at the same time as Do Thuong for raping his 14-year-old daughter
17 August 1999	Vo Van Hung was executed at the same time as Do Thuong for the murder of his father
28 September 1999	Le Van Minh, 30, was executed at the Cau Nga execution site, Tu Liem district in Ha Noi for drug trafficking

The Vietnamese authorities continue to operate national programs to counter serious problems around drug trafficking and corruption in the country. This is reflected in the increasing use of the death penalty for these offenses. While acknowledging these concerns, Amnesty International reiterates that:

- there is no clear evidence that the death penalty has any identifiable deterrent effect against serious crime;
- where trials routinely fall short of international standards imposition of the death penalty can lead to irreversible miscarriages of justice;
- the death penalty brutalizes all those involved in its implementation;
- implementation of the death penalty is in contravention of international human rights standards and runs counter to United Nations recommendations to move towards abolition.

Amnesty International unconditionally opposes the death penalty in all circumstances as the ultimate cruel, inhuman and degrading punishment and violation of the right to life. These rights are upheld in the Universal Declaration of Human Rights (Articles 3 and 5) and the International Covenant on Civil and Political Rights (Articles 6 and 7), to which Viet Nam is a state party.

Recent cases and appeals

The death sentences imposed on Tran Dam and Phung Long That in April 1999 for their part in a smuggling operation involving goods worth US\$83 million were upheld by the Appeals Court on 12 November 1999. Their current situation is not known.

On 12 January 2000 the Judge of the Supreme People's Court delivered his decision on appeals lodged against the death sentence by six men found guilty of "defrauding and misappropriating socialist properties" in August 1999. The case known

as the Epcó-Minh Phung fraud and corruption case involved 71 defendants and was described by the appeal court judge as "the biggest ever case of defrauding and appropriating socialist property as it involved property worth many thousands of billion dong"¹. The decision upheld the death sentence on four of the men - Tang Minh Phung and Lien Khui Thin, both company directors, Nguyen Tan Phuc, an executive of EPCO, and Pham Nhat Hong, deputy director of the Industrial and Commercial Bank of Viet Nam. Nguyen Ngoc Bich, deputy director of the Bank for Foreign Trade of Viet Nam, and Nguyen Xuan Phong, a company director, had their death sentences commuted to life imprisonment. The full text of the Appeals Court judgement was not available to the public.

Four more people were sentenced to death during January 2000 for drug trafficking offenses. Quang Van Tinh was sentenced to death in Lai Chau province, and Tran Van Nghia, Nguyen Phouc Duc and Nguyen Thanh Hai were sentenced to death in Ho Chi Minh City.

How the death penalty works in Viet Nam

The Law on Criminal Procedure provides regulations for imposition of the death penalty. Defendants sentenced to death by a municipal or provincial court are allowed to appeal to the Supreme People's Court. The hearing of an appeal to the Supreme People's Court should be held within two months. If the sentence is upheld then the defendant has seven days in which to lodge a final appeal to the President for clemency.

Executions are carried out by a firing squad of five people, reportedly often in public, followed by quick burial. Relatives are not informed beforehand, but are asked to collect executed prisoners' belongings two to three days afterwards. The general public are apparently encouraged to attend. Some accounts of executions describe victims being taken to the execution ground blindfolded and gagged with lemons in their mouths.

Commutations appear to happen rarely. Two were reported in 1999. In one case Nguyen Khanh Loc, who had been sentenced to death for drug smuggling, was saved just as he was about to be executed by firing squad in 1997 when he offered to provide the authorities with the names of other people involved in a drug smuggling ring. He was subsequently called as a witness in a trial of six people for drug offenses, three of whom were sentenced to death in September 1998. Nguyen Khanh Loc's death sentence was formally commuted by the President in June 1999.

¹ *Voice of Vietnam*, Ha Noi, 12 January 2000

In another case, the death sentence on Thai national Visanu Chokethaweesap was commuted in October 1999. He had been sentenced to death in July 1998 for "swindling public property and private assets". His family campaigned for commutation and the Thai government raised his case with the Vietnamese authorities.

"2000 Special Amnesty"

The authorities have announced that there will be a "2000 Special Amnesty" for prisoners in Viet Nam to mark the year 2000 as well as the 25th anniversary of Southern Liberation Day on 30 April and the 55th anniversary of National Day on 2 September. Thousands of prisoners are expected to be released. Amnesty International is urging the authorities to also consider commutation of all death sentences under this special amnesty.

Recommendations

Amnesty International welcomes the recent reduction in the number of offenses punishable by the death penalty. However, the organization offers the following recommendations and urges the government to consider taking further steps towards abolition of the death penalty in Viet Nam:

- **in accordance with United Nations Commission on Human Rights Resolution on the Question of the death penalty, April 1999, establish a moratorium on executions;**
- **encourage discussion amongst National Assembly members and other appropriate legislative institutions on complete abolition of the death penalty;**
- **commute all remaining death sentences;**
- **ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, which aims for worldwide abolition of the death penalty;**
- **make publicly available all information about the imposition of the death penalty, including information on executions carried out;**
- **consider commutation of all outstanding death sentences under the "2000 Special Amnesty" planned for this year.**