



Australia – Vietnam Human Rights Dialogue

Human Rights Watch Submission

July 2017

We write on the occasion of the forthcoming 14th Australia-Vietnam human rights dialogue, scheduled to be held in Canberra in August 2017. Australia should raise pressing human rights issues in an unambiguous manner, set clear benchmarks for improvements, and make the outcome of the discussions public.

The Vietnamese government continues to systematically suppress freedom of expression, association, and peaceful assembly. Independent writers, bloggers, and rights activists who question government policies, expose official corruption, or call for democratic alternatives to one-party rule are routinely placed under intrusive police surveillance. Critics face multiple forms of police harassment, including intimidation of family members, arbitrary prohibitions on travel within Vietnam or abroad, brutal physical assaults, and fines. Authorities also arbitrarily detain critics incommunicado for long periods without access to legal counsel or family visits. Many are sentenced to long terms in prison for violating vague national security or other draconian laws. Police frequently torture suspects to elicit confessions and sometimes respond to public protests with excessive use of force.

Human Rights Watch recommends that Australia focus on **political prisoners and detainees; harassment, violence and restrictions on activists and dissidents; repression of freedom of religion; and police abuse.**

1. Political Prisoners and Detainees

Vietnam has a record of sentencing peaceful bloggers and activists to harsh prison terms for exercising their basic rights. More than a hundred known political prisoners are currently behind bars, though the total number is likely larger. The authorities often detain people for long periods for alleged national security violations, without access to legal counsel or family visits, and with inadequate medical care.

Vietnam frequently uses vaguely worded and loosely interpreted provisions in its penal code and other laws to imprison peaceful political and religious dissidents. Under the revised penal code, which will become effective in January 1, 2018, these include “activities aiming to overthrow the

people's administration" (penal code article 109, penalty up to death sentence); "undermining national unity policy" (article 116, penalty up to 15 years in prison); "conducting propaganda against the State of the Socialist Republic of Vietnam" (article 117, penalty up to 20 years); "disrupting security" (article 118, penalty up to 15 years); and "supplemental punishment" which strips former prisoners convicted of "national security" crimes of certain rights, puts them on probation for up to five years, and allows confiscation of part or all of their property (article 122). Vietnam also uses other articles in the penal code to target peaceful dissenters, including "abusing rights to democracy and freedom to infringe upon the interests of the State and the legitimate rights and interests of organizations and citizens" (article 331, originally article 258); "disrupting public order" (article 318, originally article 245); and charges such as tax evasion.

The revised code includes making some provisions such as article 109 (originally article 79) and article 117 (originally article 88) harsher. Each now has a clause that states, "The person who takes actions in preparation of committing this crime shall be subject to between one and five years of imprisonment."

During 2016, at least 21 critics and activists were convicted for peaceful acts of free expression with sentences ranging from three years to 13 years in prison, including prominent bloggers Nguyen Huu Vinh¹ (also known as Ba Sam) and Nguyen Dinh Ngoc² (also known as Nguyen Ngoc Gia), rights activists Tran Anh Kim, Le Thanh Tung and Can Thi Theu³.

Since October 2016, the police have conducted a new wave of repression against rights activists and bloggers. Authorities arrested at least 12 activists within the last eight months, pending investigation, including Ho Van Hai, Tran Thi Nga, Hoang Duc Binh, Phan Kim Khanh, Bui Hieu Vo, Vu Quang Thuan, Nguyen Van Dien, Nguyen Van Oai, Nguyen Van Hoa, Nguyen Danh Dung, Luu Van Vinh, and Nguyen Van Duc Do, and Nguyen Ngoc Nhu Quynh.

Some examples of current political prisoners and detainees that Australia should raise include:

- Prominent blogger Nguyen Ngoc Nhu Quynh⁴, who blogs under the pen name "Mother Mushroom" (Me Nam). In June 2017, she was convicted for "conducting propaganda against the state" under article 88 of the penal code, and sentenced to 10 years in prison.

¹ "Vietnam: 7 Convicted in One Week," Human Rights Watch news release, April 4, 2016, <https://www.hrw.org/news/2016/04/04/vietnam-7-convicted-one-week>.

² Ibid.

³ "Vietnam: End Crackdown on Bloggers and Activists," Human Rights Watch news release, January 12, 2017, <https://www.hrw.org/news/2017/01/12/vietnam-end-crackdown-bloggers-and-activists>.

⁴ "Vietnam: Free Blogger 'Mother Mushroom,'" Human Rights Watch news release, June 28, 2017, <https://www.hrw.org/news/2017/06/28/vietnam-free-blogger-mother-mushroom>.

- Prominent lawyer Nguyen Van Dai and his fellow activist Le Thu Ha⁵ were detained in December 2015. They are charged with article 88. Since Nguyen Van Dai's arrest, his lawyers have reportedly been unable to meet him.
- Labor activist Nguyen Hoang Quoc Hung⁶ is serving a nine-year prison sentence for allegedly helping to organize a wild cat strike at a shoe factory in Tra Vinh province in 2010.
- Influential blogger Tran Huynh Duy Thuc⁷ is serving a 16-year prison sentence for his writings on the Internet and attempts to form a group to promote democracy. In May 2016, Tran Huynh Duy Thuc went on a two-week hunger strike to protest rights violations in prison.
- Religious activists Ngo Hao and Nguyen Cong Chinh are serving 15 and 11-year prison sentences respectively for their advocacy for freedom of religion. Prisoners reportedly assaulted Nguyen Cong Chinh while staff looked away. His family has been put under intrusive police surveillance and frequently faces harassment and intimidation.
- Rights activists Ho Duc Hoa and Nguyen Dang Minh Man are serving lengthy prison sentences ranging from 8 to 13 years for allegedly being involved with a non-communist party.

Recommendations

Australia should publicly and privately call on the Vietnamese government to:

- Release all political prisoners and detainees, including those imprisoned or detained for exercising their rights to free expression, assembly, movement, or political or religious association, and cease arresting and detaining others for such actions. Those with health problems should be released so that they can receive proper medical treatment. Some of the most urgent medical cases for immediate release are bloggers Tran Huynh Duy Thuc⁸, Tran Thi Nga⁹, Nguyen Huu Vinh¹⁰ (also known as Ba Sam), and religious activists Ngo Hao and Nguyen Cong Chinh¹¹.

⁵ "Vietnam: Hold Elections for Country's Leaders," Human Rights Watch news release, January 16, 2016, <https://www.hrw.org/news/2016/01/19/vietnam-hold-elections-countrys-leaders>.

⁶ "Vietnam: Overturn Conviction of Peaceful Democracy Activists," Human Rights Watch news release, May 10, 2010, <https://www.hrw.org/news/2010/05/10/vietnam-overturn-conviction-peaceful-democracy-activists>.

⁷ Ibid.

⁸ Ibid.

⁹ Front Line Defenders, "Tran Thi Nga Arrested," January 23, 2017, <https://www.frontlinedefenders.org/en/case/tran-thi-nga-arrested#case-update-id-4998> (accessed July 14, 2017).

¹⁰ "Vietnam: Drop Charges Against Prominent Bloggers," Human Rights Watch news release, March 22, 2016, <https://www.hrw.org/news/2016/03/22/vietnam-drop-charges-against-prominent-bloggers>.

¹¹ "Vietnam: Crackdown on Critics Escalates," Human Rights Watch news release, February 1, 2013, <https://www.hrw.org/news/2013/02/01/vietnam-crackdown-critics-escalates>.

- Immediately and unconditionally release all persons detained for peaceful activities to promote the rights of workers to freely associate, including the right to form and join trade unions of their own choice; to peacefully assemble to protect and advance their rights; and to exercise their right to freedom of expression on behalf of workers and their concerns.
- Amend or repeal provisions in the penal code and other laws that criminalize peaceful dissent on the basis of imprecisely defined “national security” crimes.
- Revise its labor laws to recognize the right to freedom of association, and immediately recognize independent labor unions.
- Ratify ILO Conventions No. 87 (Freedom of Association and Protection of the Right to Organize) and No. 98 (Right to Organize and Collective Bargaining).
- As an immediate confidence-building measure, allow access to prisoners or detainees by families, legal counsel, and outside observers from Australia and international humanitarian and human rights groups.

2. Harassment, Violence and Restrictions on Activists and Dissidents

The Vietnamese government has long arrested and prosecuted domestic human rights activists, using rights-violating laws and Communist Party-controlled courts and police. But the recent explosion of internet-driven activism in the country has coincided with the appearance of another frightening instrument of political repression: physical assaults on rights activists carried out by violent plainclothes thugs who appear to be acting with the knowledge or permission of the authorities. Beatings have taken place in streets, cafés, and even inside police stations. Assailants have attacked victims in front of uniformed police who have failed to intervene, most likely because they believe the attackers are state agents. In many cases, assailants wear surgical masks to hide their identities. Some activists have been abducted, taken away in cars or vans, beaten and then abandoned in deserted areas. In almost no cases have perpetrators been held accountable for their actions.

In June 2017, Human Rights Watch published *No Country for Human Rights Activists*¹², a report that examines 36 cases of attacks on bloggers and democracy campaigners in Vietnam.

In particular, we urge you to raise the following cases:

- Land rights campaigner Truong Minh Huong, who was beaten on December 22, 2016 in Ha Nam province, after traffic police stopped the taxi that he and lawyer Ha Huy Son were travelling in. At least six men in plainclothes repeatedly assaulted Truong in front of two traffic police, who did nothing to intervene. The police ignored lawyer Ha’s entreaties for them to stop the beating, which continued by the side of the road in broad daylight. This is

¹² Human Rights Watch, *No Country for Human Rights Activists: Assaults on Bloggers and Democracy Campaigners in Vietnam* (New York: Human Rights Watch, 2017), <https://www.hrw.org/report/2017/06/18/no-country-human-rights-activists/assaults-bloggers-and-democracy-campaigners>

the third time we know of that unknown thugs have attacked Truong Minh Huong or his home since he became active on land rights issues after the government confiscated his family's land for a tourist project.

- Environmentalist and anti-Formosa activist La Viet Dung was seriously injured on July 10, 2016, by three or four men who attacked him on his way home from a No-U Football Club game in Hanoi. His skull was seriously fractured with a brick, requiring emergency treatment and hospitalization. In May 2016, thugs attacked his car and broke his windshield, police temporarily detained him after staging a silent protest in public, and the government denounced him on national television as a 'subversive reactionary.' The No-U Football Club, composed of dissidents, is under constant surveillance by the authorities.
- Religious freedom activist Tran Thi Hong was beaten on March 30, April 14, and May 13 in connection with her efforts to explain the harassment and attacks against the Lutheran Church in Vietnam's highland province of Gia Lai. Police prevented her from going to attend a meeting on March 30 with U.S. Ambassador-at-Large for International Religious Freedom David Saperstein, dragged her off her motorbike and demanded she go to a police station with them. They physically assaulted her, confiscated her motorcycle and forced her to return home in a taxi when she refused to go with them. On April 14, she was forced to go to the headquarters of the People's Committee of Hoa Lu ward in the city of Pleiku, Gia Lai province, for questioning, and beaten there by officials before being released. On May 13, officials physically assaulted her at Hoa Lu ward police headquarters. Her husband, Pastor Nguyen Cong Chinh, is currently serving an 11-year sentence for "undermining national unity" connected to his work on religious freedom.
- On December 6, 2015, a group of more than a dozen thugs stopped the taxi in which activists Nguyen Van Dai, Ly Quang Son, Vu Van Minh (also known as Vu Duc Minh), and Le Manh Than were traveling, on their way to Hanoi after speaking at Van Loc parish in Nam Dan district, Nghe An province. The thugs dragged all the men out of the car and beat them with sticks and rods. Both Nguyen Van Dai and Le Manh Than were shoved into cars, beaten repeatedly, and ultimately dumped in a remote area after being robbed of their wallets and mobile phones. Nguyen Van Dai had been repeatedly harassed and assaulted prior to this attack.

The government has also prevented an increasing number of dissidents and human rights defenders from traveling abroad. Rights activists and bloggers such as Nguyen Quang A, Pham Doan Trang, Huynh Ngoc Chanh, Nguyen Ngoc Nhu Quynh, Nguyen Kim Chi, Tran Bang, and many others were placed under house arrest or briefly detained so they could not attend certain meetings or events.

Recommendations

Australia should publicly and privately call on the Vietnamese government to:

- Immediately end government-tolerated vigilantism and physical assaults against bloggers and activists and hold accountable those responsible for acts of violence.
- Publicly and unambiguously condemn physical assaults and other forms of harassment and retaliation against rights bloggers and activists, emphasizing that such acts are illegal and that anyone involved in ordering or facilitating such attacks will be held responsible.
- Immediately order thorough and impartial investigations of all cases in which rights bloggers and activists are assaulted, intimidated, or threatened; prosecutors should bring charges against all persons credibly implicated in the attacks and other criminal acts.
- Allow journalists to investigate and report freely on attacks against rights bloggers and activists.
- Permit individuals the right to associate freely and peacefully with others of similar views regardless of whether those views run counter to the political or ideological views approved by the Party and state.
- Permit activists to travel within the country and abroad freely.

3. Repression of Freedom of Religion

The government restricts religious practice through legislation, onerous registration requirements on “un-official” religious groups, harassment, and surveillance. Religious groups are required to gain approval from and register with the government, as well as operate under government-controlled management boards. While authorities allow many government-affiliated churches and pagodas to hold worship services, they ban religious activities they deem contrary to the “national interest,” “public order,” or “national great unity.” Authorities frequently interfere with religious activities of unrecognized branches of the Cao Dai church, the Hoa Hao Buddhist church, independent Protestant and Catholic house churches in the central highlands and elsewhere, Khmer Krom Buddhist temples, and the Unified Buddhist Church of Vietnam.

Another common form of harassment against independent religious groups employed by the authorities is forced denunciation of faith. In April 2016, state media reported that more than 500 followers of the outlawed Dega Protestant “voluntarily renounced” their faith in Chu Puh district, Gia Lai province. Coerced recantation of faith is a violation of freedom of belief, a non-derogable right.

Human Rights Watch has also highlighted the Vietnamese government’s ongoing persecution of ethnic Montagnard Christians in Vietnam’s Central Highlands, one aspect of a broader pattern of

rights violations against religious minorities in the country.¹³ Accused of practicing “evil way” religions, Montagnard practitioners of the De Ga and Ha Mon forms of Christianity are persecuted pursuant to high level government policy.

During 2016, the government convicted at least nine Montagnards, including Gyun, Thin, Dinh Ku, A Tik, A Jen, Siu Doang, Ksor Pup, Siu Dik and Ksor Phit, for participating in independent religious groups not approved by the government. They were charged with article 87 of the penal code and sentenced to between five years and 11 years in prison. In April 2017, another five Montagnards including Ro Ma Daih, Puih Bop, Ksor Kam, Ro Lan Kly and Dinh Nong, were convicted and sentenced between 8 to 10 years in prison, also for violating article 87.

Montagnards are subjected to constant surveillance and other forms of intimidation, arbitrary arrest, and mistreatment in security force custody. In detention, the authorities question them about their religious and political activities and possible plans to flee Vietnam. Over the past years, hundreds have fled to Cambodia and other parts of Southeast Asia. The Vietnamese authorities have responded to the flight of Montagnards into Cambodia by pressuring Cambodian authorities to prevent border crossings and deny those who do cross the right to seek asylum.¹⁴ Cambodian authorities, in turn, refused to register more than a handful as asylum seekers.

Recommendations

Australia should publicly and privately call on the Vietnamese government to:

- Allow all independent religious organizations to freely conduct religious activities and govern themselves. Churches and denominations that do not choose to join one of the officially authorized religious organizations with government-sanctioned boards should be allowed to operate independently.
- End harassment, arrests, prosecutions, imprisonment, and ill-treatment of people because they are followers of disfavored religions, and release anyone currently being held for peaceful exercise of the rights to freedom of religion, belief, expression, assembly and association.
- Cease all measures to prevent Montagnards and other Vietnamese citizens from leaving the country and do not punish those who return.
- Ensure all domestic legislation addressing religious affairs is brought into conformity with international human rights law, including the International Covenant on Civil and Political

¹³ Human Rights Watch, *Persecuting ‘Evil Way’ Religion: Abuses against Montagnards in Vietnam* (New York: Human Rights Watch, 2015), <https://www.hrw.org/report/2015/06/26/persecuting-evil-way-religion/abuses-against-montagnards-vietnam>

¹⁴ “Cambodia: Don’t Return Montagnard Asylum Seekers to Risk of Harm,” Human Rights Watch news release, September 24, 2015, <https://www.hrw.org/news/2015/09/24/cambodia-dont-return-montagnard-asylum-seekers-risk-harm>.

Rights (ICCPR). Amend provisions in domestic law that impinge on freedom of religion and belief, expression, association, or peaceful assembly in violation of the ICCPR.

- Permit outside observers, including United Nations agencies, nongovernmental organizations concerned with human rights, and foreign diplomats, unhindered and unaccompanied access to the Central Highlands, including specifically to communes and villages from which Montagnards have recently departed to seek asylum abroad. Ensure there is no retribution or retaliation whatsoever against anyone who speaks to or otherwise communicates with such outside observers.

4. Police Abuse: Cruel, Inhuman and Degrading Treatment and Torture

Police throughout Vietnam have been abusing people in their custody, in some cases leading to death. In many of these cases, those killed were being held for minor infractions. A number of survivors said they were beaten to extract confessions, sometimes for crimes they maintained they did not commit. Although the government promised improvements after Human Rights Watch published its findings about police brutality, it appears that officers who have committed serious, even lethal, transgressions have only rarely faced the serious consequences the law requires.

In May 2017, police in Vinh Long arrested Nguyen Huu Tan for allegedly conducting propaganda against the state. After his arrest, the police informed his family that he committed suicide by using a knife to cut his own throat. He allegedly found that knife in the bag of an investigator who left the room momentarily. His family protested the cause of death, pointing out many discrepancies between what they saw on Nguyen Huu Tan's body and a blurry police video recording.

Recommendations

Australia should publicly and privately:

- Express strong concern to Vietnamese officials about police abuse, emphasizing that it violates both Vietnamese and international law, that perpetrators should be punished, and that victims should receive remedy and compensation.
- Urge the government of Vietnam to establish effective accountability mechanisms. For instance, Vietnam should establish an independent police complaints commission to accept complaints from the public and to provide oversight over the "internal affairs" or "professional responsibility" unit of the police. The commission should be a statutory body with the legal authority to bring prosecutions or impose discipline if the internal affairs or professional responsibility unit fails to do so in cases in which credible allegations have been made.
- Amend the Criminal Procedure Code to facilitate the presence of lawyers or legal counsel immediately after arrest or detention so that:

- Lawyers or legal counsel only need to present their identity card and a certified copy of their license to meet their clients.
- Lawyers or legal counsel may meet their clients in private and for as long as necessary.
- Lawyers or legal counsel may be present at all interrogation sessions between police and detainees.