



Stakeholder submission to the 18th session of the UN Human Rights Council UPR for Vietnam

1 June 2013

SUBMITTING STAKEHOLDERS

VOICE (Bangkok, Thailand and Manila, Philippines) and Freedom House (Washington DC, USA) have compiled information received from partner organisations within Vietnam.

VOICE (Vietnamese Overseas Initiative for Conscience Empowerment)

www.vietnamvoice.org

VOICE is a non-profit organisation established in California, USA in 2006. Since 2007, VOICE has provided internship opportunities to young Vietnamese from Vietnam and abroad to learn more about the rule of law, government policy and civil society development. VOICE aims to support and empower courageous individuals, young graduates, bloggers and activists through short and long-term internship programs, training courses, and mutual collaboration with NGOs in the Philippines. Issues covered include international human rights law, community empowerment, and civil society development.

Freedom House

www.freedomhouse.org

Vietnam Path Movement – Con Duong Viet Nam (VPM, CDVN)

<http://conduongvietnam.org/>

Dong Chua Cuu The – Vietnamese Redemptorists' News

<http://www.vrnews.org/>

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Keywords: religious freedom, Buddhist, Redemptorist church, due process, closed trial, criminal procedure, feigned legitimacy, arbitrary detention, national security, police brutality, torture, cruel, inhumane, degrading treatment or punishment, spreading propaganda, civil society, freedom of association, NGO, GONGO, freedom

of assembly, Facebook, Vietnam-China relations, South China Sea, land grabbing, protestors, demonstrations, police harassment, restriction of movement, land grabbing, forced eviction, fair compensation, state-owned media, one-party state, internet freedom, blogger, social networking

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Freedom of Religion

1. Given the signature and ratification of the *ICCPR*, Vietnam appears to have a complete legal framework to guarantee freedom of religion for its citizens. Even the *Constitution* of Vietnam stipulates that "Citizens have the right to freedom of belief and religion, and may practise or not practise any religion" (Article 70). However, State recognition of religious organizations is essential to ensure the development of religions in the statutory framework as well as to solve conflicts between (and within) religious organizations.
2. Although the *Constitution* provides that "all religions are equal before the law", the implementation of the new legal framework creates conflicting results. For example, *Decree 92*, issued in 2012, providing further guidance on the *Ordinance on Religion and Belief (Ordinance 2004)*, stipulates that the name of the registered religious organization must not coincide with the name of those that have been previously recognized. This regulation has been used by authority agencies to deny registration of some religious organizations such as the United Buddhist Church of Vietnam, the Evangelical Church Mennonite, and the Hoa Hao Central Buddhist Church. *Decree 92* also goes further than *Ordinance 2004* in restricting religious freedom by requiring religious organizations to operate for at least twenty continuous years if they wish to be recognized by the State.
3. *Intervention in the activities of religious organizations*
Current laws authorize the government to interfere in the internal affairs of religious organizations. For example, *Ordinance 2004* stipulates that the congress of religious organizations must be approved by local and central authorities. This requirement created difficulties for some religious organizations in their practice of religion, like the Hoa Hao Central Buddhist Church when they celebrated Holy Huynh's Death Anniversary in March 2012.
4. *Ordinance 2004* also requires that those who are ordained must meet ambiguous criteria, such as "having good moral virtues" and "having the spirit of solidarity and ethnic harmony". By not clarifying these criteria, the government has the power to suppress those regarded as threats to its authority.
5. In addition, according to the *Ordinance*, religious organizations must reach an agreement with the State regarding an appointment when a "foreign element" is involved. This means that for the Catholic faith, the Pope must discuss with the State before appointing a bishop. One example is the case of Father Nicolas Huynh Van Nghi, who was appointed bishop of Saigon by the Vatican but rejected later by the government.

6. Another limitation relates to missionary activities. Under the *Ordinance*, religious dignitaries can perform religious rituals outside a worship place only with authorization. Accordingly, religious dignitaries could be fined if they evangelize in non-religious regions where there is no church. This demand has obstructed the expansion of religion.
7. *Violation of the right of religious dignitaries to reside and travel*
The government has obstructed many religious dignitaries, such as those of the Vietnamese Redemptorist Church, in their rights to reside and travel, in order to limit their influence as well as that of the religious organizations. Reverend Fr. Vincent Pham Trung Thanh, the Provincial Superior of the Redemptorist Province of Vietnam, was banned on July 10th, 2011 from attending a religious forum in Singapore. In the same month, Father Joshep Dinh Huu Thoai, Provincial Secretary of the Redemptorist Church was blocked from exiting to Cambodia. On September 16th, 2012, Father Anthony Le Ngoc Thanh was held in custody at the police station in Bac Lieu province, while on the way to attend the death anniversary of Ms. Dang Thi Kim Lien, who burned herself to death on July 30th, 2012 to protest the arrest of her daughter Ta Phong Tan.

Right to Fair Trial and Public Hearing

8. In its previous UPR in 2009, Vietnam agreed to comply with the *ICCPR*, particularly Article 14, by agreeing to take the necessary steps to ensure fair trial in its laws (A-42 recommendation by Argentina). In actuality, however, when it comes to cases related to human rights, compliance in relation to this remains to be seen.
9. *Denied Due Process*
Vietnam's *Criminal Procedure Code* stipulates that the responsibility of proving offences rests with procedure-conducting bodies; the accused or defendant has the right to remain silent, and is guaranteed a means of defense and fair trial under the law. In reality, these rights are not actualised. This is especially true when a person is charged with an offence related to challenging or 'harming' the Communist Party or the State.
10. Political activists facing trial have difficulties gaining access to legal representation as the authorities harass and threaten lawyers who take them as clients, implement bureaucratic delays, and/or reject requests for defense counsel. This is evident in the following cases:
11. On January 20th, 2010, Le Cong Dinh (Lawyer), Tran Huynh Duy Thuc (Activist), Le Thang Long (Activist) and Nguyen Tien Trung (Engineer) were tried for "activities aimed at overthrowing the state" before the Ho Chi Minh City People's Court. The defendants' motion for the refusal of a CPV-controlled bench of judges was dismissed. It took the judges merely 15 minutes to deliberate, with the verdict announced within 45 minutes. The defendants were not given the opportunity to cross-examine witnesses or analyze the evidence against them.

12. On April 4th, 2011 the Hanoi People's Court convicted Cu Huy Ha Vu (Legal Scholar) of "spreading anti-state propaganda" in less than six hours. The defense team was denied access to documents on which the prosecution's case was based, while a defense lawyer was dismissed. The remaining lawyers persisted in seeking the documents, only to walk out in protest when their efforts were in vain.
13. Phan Ngoc Tuan (Labour Rights Activist) was sentenced to five years in prison for "spreading anti-state propaganda" by Ninh Thuan Province People's Court. He was tried on June 6th, 2012 and August 29th, 2012, and had no legal representation nor was he allowed to speak in defense of himself both times. His request for a defense counsel was rejected during the interrogation phase.
14. On December 27th, 2013, Le Quoc Quan (Lawyer) was arrested on charges of 'tax evasion'. During the investigation, he was not granted a lawyer of his choice, and his team was not able to gain access to case documents. Le Quoc Quan was also required to wear a prisoner's uniform when meeting with his lawyers, even before proven guilty. To date, his family has been denied visitation rights.

15. *Closed trials*

Although public trials are required under Article 18 of Vietnam's *Criminal Procedure Code*, most hearings for political cases are closed to the general public. To feign the legitimacy of these trials, select individuals and state-owned media agents are placed inside the courtrooms by local authorities. In the case of Cu Huy Ha Vu, a few foreign diplomats and journalists were allowed to watch the proceedings via closed-circuit television. In the case of Le Cong Dinh, Tran Huynh Duy Thuc, Le Thang Long, and Nguyen Tien Trung, the defendants' relatives were banned from the trial, while dozens of policemen monitored the courthouse. A similar set-up was also used during hearings for:

- Nguyen Van Hai (Blogger Dieu Cay), Ta Phong Tan (Blogger), Phan Thanh Hai (Blogger Anh Ba Saigon) on September 24th and December 28th, 2012;
- Vo Minh Tri (Musician Viet Khang) and Tran Vu Anh Binh (Musician) on October 30th, 2012;
- 14 Catholic Activists from January 8-9th, 2013.

Arbitrary detention¹

16. Vietnam's judiciary is not independent from its legislative and executive branches, as judges and the Chief Justice are members of the Communist Party of Vietnam (CPV). As a result of this ambiguity and lack of separation of power, the state has detained and/or imprisoned many dissidents and activists without trial or legal reason contrary to the right to liberty and security of the person (*ICCPR* Article 9 and 10), as demonstrated in the following cases:

¹ The Working Group on Arbitrary Detention has found consistent breaches of this principle from 1992 to 2012.

17. Between late August to early September, 2009, Pham Thi Doan Trang (reporter for VietNamNet), Bui Thanh Hieu (Blogger Ngoi Buon Gio), and Nguyen Ngoc Nhu Quynh (Blogger Me Nam) were arrested and detained arbitrarily. At the time of the arrest, Nguyen Ngoc Nhu Quynh was caring for her 36 month-old child, which should have exempted her from being arrested under Vietnamese law.
18. On April 4th, 2011, Le Quoc Quan (Blogger/Lawyer), and Pham Hong Son (Doctor/Democracy Activist) were arrested outside of Hanoi People's Court for simply being present to observe the trial of Cu Huy Ha Vu.
19. On November 27th, 2011, Bui Thi Minh Hang (Activist) was arrested in front of Ho Chi Minh City's police station for protesting (peacefully) against unlawful suppression of the government. Her arrest was not announced to her family, and she was then moved to Ha Noi and imprisoned for two years in a re-education camp.
20. Under Article 120 of Vietnam's *Criminal Procedure Code*, pre-trial detention is limited to four months for very serious offenses, and may be extended no more than three times (four months per time) for serious offences. However, extensions are routinely applied to "national security" cases under vague grounds, which often have no indication of being serious. Bloggers Nguyen Van Hai and Phan Thanh Hai were imprisoned for 23 months prior to their conviction on September 24th, 2012, a duration that exceeds even the longest extension period permitted under Article 120. Vietnam has failed to ensure that all persons deprived of liberty are brought before a judge without delay (A-43 recommendation by Austria during the fifth session of the 2009 UPR).

Police Brutality, Torture and other Other Cruel, Inhuman, or Degrading Treatment or Punishment

21. It is commonplace for political detainees to be held incommunicado with no access to legal representation in the first four months of detention. Further, to extract confessions, investigators sometimes resort to physical abuse, isolation, excessively lengthy interrogation sessions, sleep deprivation, and punitive placement of defendants in dark, airless, unsanitary, and solitary cells.
22. During the investigation phase for Tran Huynh Duy Thuc, he was held in a cramped cell with minimal exposure to sunlight, with no sanitation facility or water source. In August 2009, before their trial took place, Le Cong Dinh, Tran Huynh Duy Thuc, and Le Thang Long were forced to sign a confession and admit guilt on state-owned television channels.
23. In October 2012, 21 year-old Nguyen Phuong Uyen was arrested for "spreading anti-state propaganda". In April 2013, her mother discovered that she had been beaten to concussion, with bruises on her neck, chest, and arms during a prison visit.

Civil Society and Freedom of Association

24. Although civil society organizations (CSOs) in Vietnam exist theoretically in the form of MOs (mass organizations), NGOs (non-governmental organizations), and CBOs (community-based organizations), most are actually GONGOs (government-organized NGOs).
25. Furthermore, and in a severe curtailment of the rights listed in Article 20 of the UDHR and Article 22 of the ICCPR, the government has issued regulatory documents governing civil society, including the *2007 Grassroots Democracy Decree* on the involvement of people and community-based organizations in policy making, *Decree 30 (2012)* on the activities of charity and social funds, and *Decree 45 (2010)* on the organization and activities of associations. The *Law on Association*, after several legislative terms over the course of 21 years with nearly 20 drafts, fails to be adopted and is arguably one of the most “politically sensitive” laws. The absence of this law means that the ruling Communist Party relies mostly on the existing above regulations to govern civil society organizations.
26. The existing regulations, however, are neither flawless nor practically enforced. The *Grassroots Democracy Decree*, whose intent is frequently described by the official slogan, “The people know, the people discuss, the people do and the people review,” in practice gives the people the right to know about some regulations and policies within their village, but not to discuss them.
27. *Decree 45* intervenes in the organization and activities of associations by determining their charter and structure. It stipulates the minimum number of members a group needs to be recognized; for example, 10 for an association at the commune level, and 100 for a national association. Every group must also register a location for its headquarter, which is almost impossible for many small groups in poor financial conditions. Likewise, *Decree 30* sets very high “minimum assets” for charity and social funds to be registered.
28. Under the law, citizens wanting to form an organization must also undertake complicated and time-consuming administrative procedures. It is unlikely for an NGO dealing with human rights, state accountability, anti-corruption, or other politically sensitive issues to be granted an establishment license. Non-political NGOs, for example, the *Vietnam Writers’ Association*, may face less complex registration procedures, but must still operate in accordance with Party-adopted charters, rules and regulations.
29. Recently, “*Cơm có thịt*” (“Meals with Protein”), an initiative by a retired journalist to provide food to indigent children in mountainous areas, failed to be licensed after nearly two years of operation. Its founder could not do anything but complain about ‘foot-dragging’ procedures and the delay of relevant authorities in replying to his application.
30. CBO’s, similarly with the two other types of CSO’s, can scarcely represent the voices of the poor. This is due to their limited capabilities, shortage of resources, or both.

31. On the other hand, there is no law regulating the six major socio-political organizations established by the Party (the six MO's).
32. *"Party-owned CSOs"*
The MOs are socio-political organizations established by the Party. Presently there are six major MOs in Vietnam, including the *Ho Chi Minh Communist Youth Union*, the *Vietnam Farmers' Association*, the *Vietnam General Confederation of Labor* (equivalent to a national trade union), the *Vietnamese Fatherland Front*, the *Vietnam Women's Union*, and the *Vietnam Veterans Association*. These CSOs are led by communist officials who are appointed by the Party; their permanent staff are civil servants; and they are subsidized by the state budget. Their main function, as determined by the *Law on the Issuance of Legal Documents (2008)*, is to coordinate with authorities in law-making and to instruct the policies of the Party and the government. The *Farmers' Association*, for example, has remained outside rampant land conflicts between farmers and land grabbers, except when they are requested by authorities to "disseminate" state policies of development to the would-be land-lost peasants. Recently, the *Communist Youth Union* of the Ho Chi Minh Law University launched a campaign of libel and harassment against three of their students, who had previously made an online declaration in support of a land-lost farmer.
33. In brief, being state-owned and controlled by Party, MOs' responsibility is to defend the Party and state's interests rather than those of their members. Any other organization working for the rights of youth, peasants, workers, women, religious believers and veterans is deemed to overlap with the six MOs and thus denied license.

Freedom of Assembly

34. *Proletariats, you can't unite!*
As far back as 2005, in order to effectively restrict freedom of assembly and association, the government (as requested by the Ministry of Public Security) enacted *Decree 38*, under which any person taking part in public rallies or protests can be accused of "disrupting public order".
35. With *Decree 38* as a powerful tool to limit freedom of assembly, the government has stamped out as many demonstrations as they can since 1975 when South Vietnam was conquered by the Communist North. In December 2007, protests against China's provocative acts in the South China Sea disputes broke out in both Hanoi and Ho Chi Minh City and were quickly suppressed. Dozens of people were beaten, with famous blogger Dieu Cay arrested and imprisoned four months later. A 24-year-old blogger in Hanoi, Binh Nhi, was choked and beaten in the police station till he vomited blood.
36. In the summer of 2011 and 2012, anti-China protests broke out again in the two cities and were brutally suppressed. Photos and videos circulated on the internet show plainclothes policemen knocking down Facebooker Phan Nguyen on the streets of Saigon (June 12, 2011), treading on the face of blogger Nguyen Chi Duc in Hanoi (July 17, 2011) and many other cases of

police assault against protestors. In Hanoi, 47 people were arrested on August 21, 2011, some of whom were accused of “disrupting public order” and imprisoned for at least 36 hours. On the other hand, none of the police were held responsible for cases of assault and battery against civilians.

37. With the growth of Facebook being used as a tool to initiate rallying, demonstrations have broken out sporadically since June 2011, many of which were staged by land-lost peasants. Police harassment has been escalating too. Because demonstrations tend to take place on Sunday mornings, many people are confined to their homes on Sunday as if they were under house arrest. Protestors also face dismissal and boycott in their work place, or school disciplinary action if they are students. At the same time, state-owned media continue to launch campaigns to tarnish protestors’ reputation, calling protestors such names as reactionaries, fomenters, or bad people.

Restriction of Movement

38. The case of Phạm Văn Điệp (Vietnamese citizen and passport holder, born: June 12, 1968) demonstrates a severe curtailment of Article 12 of the *ICCPR* and Article 13(2) of the *UDHR*.
39. On February 16, 2007, Phạm Văn Điệp, who is a resident of Drevlanka city, Russia, left Russia and came back to Vietnam to attend a meeting with the Vietnam Democratic Party. He was arrested by Vietnamese police on February 24, 2007 and was not allowed to leave Vietnam as planned. The police put him under surveillance until June 22, 2007. On April 24, 2013, he once again tried to return to Vietnam from Russia but was denied entry by the immigration officials at Noi Bai International Airport (Ha Noi). The policemen constrained him and put him on a flight to Moscow.
40. To date, all overseas Vietnamese (Viet Kieu) are still required to obtain a visa before entering Vietnam despite the fact that under Vietnamese law, specifically the Nationality Code, all are considered Vietnamese citizens and are entitled to apply and carry Vietnamese passports. Well known cases concerning Nguyen Hung Quoc (Lecturer/Blogger), Trinh Hoi (Lawyer/Blogger) and many others have been denied entry despite the fact that they were holding valid visas and are considered Vietnamese citizens under its own law.

Forced Evictions and the Right to Housing, Home, and to Own Property

41. Land grabbing in Vietnam has resulted in consistent violations of Articles 12 and 17 of the *UDHR*; the need to provide “an effective remedy” of Article 2(1) of the *ICESCR* which includes “adequate compensation for any

property”²; the protection from forced evictions as enumerated in Article 11(1) of the ICESCR and detailed in General Comment 7 of the CESCR³; and Articles 2(3) and 17 of the ICCPR. According to Vietnamese constitutions since 1980 up to now, citizens only have the right to use land, not to own land. According to the 2003 *Land Law*, the government can revoke citizens’ land use rights and to allocate it to investors for reasons of economic development (or economic purpose) and the government only has to compensate for land acquired at price brackets imposed by themselves. In reality, the government has recovered the land of citizens arbitrarily at prices much lower than that in the free market. Land evictions have been conducted by armed policemen, and even troops, injuring a lot of people.

Control of the Media and Freedom of Expression

42. In the 2009 UPR, Vietnam responded favourably to the recommendation that it should “introduce and seek prompt passage of access-to-information legislation” (Canada), “take steps to ensure that full respect for the freedom of expression, including on the Internet, is implemented in current preparations for media law reform” (Sweden), and to ensure that “the review of the press law follows the international standards on this subject, particularly with respect to the protection of journalists” (Switzerland).
43. After four years, however, Vietnam is far from implementing any of these recommendations, no matter how its state-owned media may present the matter. Moreover, things have been worsening especially for bloggers, with site attacks, firewalls, police harassment and arbitrary arrests on the increase.
44. *The press being a political tool of the one and only party*
The vast majority of media agencies in Vietnam are owned, dominated and controlled by the Party in various forms, and so are their journalists. However, the government has been using the number of media agencies and reporters as the only significant evidence of media freedom in Vietnam.⁴
45. Given the political system in which the ruling Communist Party supersedes the state, controlling and involving itself in every aspect of governance, the state-owned press means the Party-owned press. In other words, as some Vietnamese journalists themselves often put it, in Vietnam, the press is nothing more than a tool owned and used by the Party.
46. Article 1 of the Vietnam’s *Law on Media (1999)* clearly stipulates the role and function of the media, “*The media operating within the Socialist Republic of*

² CESCR, General Comment 7, May 20 1997 at paragraph 13.

³ May 20, 1997, at paragraph 1.

⁴ As of March 2012, in print media alone, there are 786 media agencies nationwide with 1,016 publications and 17,000 licensed journalists in Vietnam. In broadcast, there are 67 broadcast agencies. Three of these are central (national) agencies, including Voice of Vietnam, Vietnam Television and Vietnam Digital Television. They provide 200 domestic channels and 67 overseas ones. In the area of electronic media, Vietnam has 46 electronic newspapers/magazines and 287 news sites.
<http://www.qdnd.vn/qdndsite/vi-vn/61/43/5/5/5/185964/Default.aspx>

Vietnam is the essential means of providing public information in relation to social life; is the mouth piece of Party organizations, State bodies and social organizations, and a forum for the people.”

47. *Enemies of the Internet*

Despite Sweden’s recommendation that Vietnam takes steps to ensure full respect for the freedom of expression, including on the Internet, things have not changed much.⁵

48. The government has been using the number of Internet users as a counterpoint to any argument about the lack of Internet freedom in Vietnam.⁶

49. The “freedom of Internet” in Vietnam has been described by a dissident editor for an online news site as: “You can use [the] Internet as much as you want as long as you write along the Party’s lines.” Thus, any article that antagonises efforts to maintaining “comradeship” with the Chinese regarding the sovereignty dispute between Vietnam and China can be accused of being against “people’s administration”. As a result, dozens of bloggers and street protestors have been arrested in recent years.

50. A typical example is the case of the famous blogger Nguyen Van Hai (aka Dieu Cay), who was sentenced to 12 years in prison and 5 years under house arrest after he had finished his first prison term of 2.5 years in 2010 because of his blog about Vietnam-China’s sovereignty dispute. While in prison he faced ill treatment and has been secretly transferred to an unknown prison.⁷

51. Any writing about the economic crisis that Vietnam has faced since early 2008 and critical of the Party-dominated government can be accused of “spreading anti-state propaganda”. While mainstream media remains obedient, the government has realized that social networking sites and blogs are its main enemies. Efforts have been made to fight these enemies, ranging from blocking “anti-state sites” to online attacks. If and when bloggers and social media users’ true identities are discovered by the authorities’ cyber-squad, the police carry out real-life harassment, assaults and detention to snuff out dissenting voices.

52. *Abuse of the law*

In 2012, at least 52 people were detained, prosecuted and some sentenced under charges related to “anti-state” activities on both mainstream press and the Internet. Of these, one person was charged with “*abusing democratic freedoms to infringe upon the interests of the State*” under Article 258 of the

⁵ In this year’s “*Enemies of the Internet*” report, Reporters without Borders has identified five state enemies of the Internet that conduct systematic online surveillance that results in serious human rights violations. They are Syria, China, Iran, Bahrain and Vietnam. <http://en.rsf.org/special-report-on-internet-11-03-2013,44197.html>

⁶ According to the stated controlled media, Vietnam ranked 18 out of the top 20 countries in Internet usage. As of March 31, 2012, there were 30,858,742 Internet users in Vietnam or 34.1% of the Vietnamese population. <http://dantri.com.vn/su-kien/viet-nam-vao-top-20-quoc-gia-co-nhieu-nguoi-dung-internet-nhat-627969.htm>

⁷ As reported by Dan Lam Bao on April 26, 2013: <http://danlambaovn.blogspot.com/2013/04/ca-bi-mat-chuyen-trai-giam-ieu-cay-bi.html>

Penal Code, another with “*illegally using information in computer networks*” (Article 226), another with “*undermining the unity policy*” (Article 87), and three with “*carrying out activities aimed at overthrowing the people’s administration*” (Article 79). The rest were accused of “*conducting propaganda against the state*” under the notorious Article 88 of the Penal Code. The number 88 reminds people of the fitting image of handcuffs, as bloggers satirically put it. The charges were similar in that they all related to so-called “anti-state” activities.

53. Among the provisions that the Party employs to crush dissent, Article 88 proves to be most useful. As a vaguely worded and overbroad provision, it can be used to punish with very harsh sentences anyone who writes anything that the Party dislikes. For example, it stipulates that those “*propagating against, distorting and/or defaming the people’s administration*” shall be sentenced to between 3 and 12 years in prison.
54. On September 20, 2012, local police arrested Nguyen Phuong Uyen, a 20-year-old female student from the southern province of Long An. The Ministry of Public Security’s indictment dated March 06, 2013 accused her of violating Article 88, “*conducting propaganda against the state*”, even though all her activities listed in the indictment were not ‘against’ the “people’s government”. She was beaten up in her cell, as her mother cried out for help. Bruises were still evident on her daughter’s face and body from her last prison visit. In May 2013, Uyen was sentenced to 6 years imprisonment while her colleague and friend, 25-year-old Dinh Nguyen Kha was sentenced to 8 years with both facing 3 more years of house arrest following their release.
55. In October 2012, songwriter Viet Khang was sentenced to four years in prison for composing two songs that contained some allegedly “anti-state” lyrics.
56. On December 28, 2012, during the Christmas holiday season when foreign diplomats and those working for international organizations would be away from Vietnam, the Ho Chi Minh City Court confirmed the sentences of 12 years of imprisonment in the case of blogger Dieu Cay and 10 years of blogger Ta Phong Tan, for violating Article 88.
57. Another regulation which effectively controls freedom of the press is the *Ordinance to Protect State Secrets*, issued in December 2000. It gives the Ministry of Public Security full power to interpret what are “state secrets”, while no one can determine exactly when a document is sealed “confidential” by the Ministry.
58. In addition to existing laws, the government continues to seek new legal tools to constrain “uncontrolled” freedom of speech. In April 2012, it issued a draft decree on the “management, supply and use of Internet services and online information”, under which Internet service providers would have to submit their clients’ personal information to the police upon request.
59. Apart from legislation, the government also enacts regulatory documents to control the Internet. On September 12, 2012, the Central Government Office

issued a document entitled “Dealing with Anti-state Information”, quoting reports by the Ministry of Public Security regarding some websites such as “Dan Lam Bao” (“Citizen Journalists” or “People Make News”) and requesting the police and propagandists to “*find out and strictly punish*” any individuals and organizations who disseminate “*calumnious information against the Party and the Government.*” The order also prohibited civil servants and party members from accessing such “reactionary websites”.

60. In short, while Vietnam may have 786 media agencies, 1,016 publications, 17,000 journalists, 67 television stations, 46 electronic newspapers and 287 news websites, one must work for the Party and must stay within the Party lines to feel and be safe.

RECOMMENDATIONS

61. Civil Society

- The legislature pushes forward with the *Law on Association*, to facilitate the establishment and operation of every CSO. Even the six MOs shall be subject to this Law rather than being treated as a superior kind of CSOs.
- The government annuls or amends laws and regulations that limit freedom rights, such as the Decree 38 on securing public order.
- Police harassment against people exercising their rights be ended immediately.
- The government abandons all forms of intervention into CSOs’ activities.

62. Fair trial

To improve the rights to fair trial in Vietnam, the government needs to make the following amendments to the *Criminal Procedure Code*:

- (1) Allow defense counsels to participate in trial from start to finish, including crimes related to the Penal Code Article 79 (carrying out activities aimed at overthrowing the people’s administration) and Article 88 (conducting propaganda against the Socialist Republic of Vietnam).
- (2) Clearly stipulate that defendants have the right to remain silent, and put it into practice.
- (3) Guarantee open trials for all cases, allowing the participation of every citizen.

Close all re-education camps, and ensure that no citizen will be imprisoned without trial.

63. Freedom of Religion

- The government needs to recognize all religions without the requirements of their name and operating time.
- *Article 22 of Ordinance 2004*, which authorizes the government to intervene in the appointment of religious organizations, be abolished.
- *Article 06 of Decree 92*, which requires religious organizations to operate for at least twenty continuous years if they wish to be recognized by the government, be abolished.

64. Forced Evictions

Appropriate procedural protection and due process put in place in the event of forced evictions:

- (a) an opportunity for genuine consultation with those affected;
- (b) adequate compensation determined by an independent assessor and reasonable notice given to all affected persons prior to the scheduled date of eviction;
- (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction;
- (e) all persons carrying out the eviction to be properly identified;
- (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise;
- (g) provision of legal remedies; and
- (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

65. Freedom of Expression and of the Press

Judicial reviews are conducted and unconstitutional laws or provisions such as Article 88 of the Penal Code, the Ordinance to Protect State Secrets, and the Law on Media, be abolished.

The government shall not criminalize technical mistakes made by the press.

66. General

The government should implement all the recommendations in the 2009 UPR regarding freedom of expression, freedom of religion, freedom of the press and land rights to which they have committed themselves, being:

A - 46: Introduce and seek prompt passage of access-to-information legislation (Canada);

A - 47: Take steps to ensure that full respect for the freedom of expression, including on the Internet, is implemented in current preparations for media law reform (Sweden);

A - 48: Consider strengthening press freedom protections contained in the 1999 press law (Australia); ensure that the review of the press law follows the international standards on this subject, particularly with respect of the protection of journalists (Switzerland); ensure that press laws are in compliance with article 19 of ICCPR (Netherlands);

A - 44: Take the necessary steps to ensure that citizens can fully enjoy the rights to freedom of expression and freedom of religion (Argentina);

A - 52: Strengthen efforts in the areas of civil and political freedoms, including freedom of expression and the press and freedom of religion (Republic of Korea);

A - 45: Fully guarantee the right to receive, seek and impart information and ideas in compliance with Article 19 of ICCPR (Italy);

A - 50: Uphold the progress it has achieved in ensuring religious freedom for the different communities and ensuring that religious and belief activities continue to be an enriching feature of Vietnamese society (Lebanon);

A - 51: Continue to maintain and strengthen the economic, political and social model of Viet Nam to guarantee the full participation of the population in public and security affairs (Laos People's Democratic Republic);

A - 53: Continue efforts in its current economic and political platform that aim at protecting and guaranteeing people's rights, namely religious freedom (Cambodia): and

A - 72. Fully implement the land law passed (Switzerland)