



RESOLUTION ON VIET NAM

Since the 82nd PEN Congress, writers, journalists and human rights defenders peacefully exercising their rights to freedom of expression, assembly and association in the Socialist Republic of Viet Nam (SRV) have continued to be criminalised under the vague national security provisions in the penal code¹ such as articles 79 ('activities aiming to overthrow the people's administration'), 87 ('undermining national unity policy'), 88 ('conducting propaganda against the State of the SRV'), 245 ('causing public disorder') and 258 ('abusing the rights to freedom and democracy to infringe upon the interests of the state, the rights and interests of individuals'). Penalties for such crimes range from seven years in prison to the death penalty. Recent amendments to the penal code also make it possible to imprison an individual for between one and five years for preparing to criticise the state or preparing to join an independent political group disapproved by the government.²

Writers, journalists, bloggers and lawyers are often targets of violent physical assaults by the authorities or unidentified assailants. They face arbitrary arrest, lengthy pre-trial detention, limited access to legal counsel, unfair trials and heavy prison sentences. In the forced labour camps, they face cruel, inhuman or degrading treatment, including over-crowded and unsanitary prison conditions, undernourishment and solitary confinement. Sick prisoners lack adequate access to medical care. Once released, they are subject to long periods of probationary detention, suffering harassment and risking re-arrest. Former prisoners may also be subjected to restrictions on their freedom of movement through the application of travel bans and passport confiscation. Some have been forced into exile.

PEN International condemns the relentless crackdown against freedom of expression and the ongoing imprisonment of writers, journalists, bloggers and lawyers, in connection with the peaceful exercise of their above mentioned basic rights. Among many other cases of grave concern are the following:

1. **Tran Huynh Duy Thuc** (born in 1966), poet, blogger, internet writer and businessman. Co-author of the banned book *The Way for Viet Nam*, he also published poems and articles on his various web blogs. Arrested in May 2009 and sentenced to 16 years in prison and five years in probationary detention in January 2010 for 'conducting propaganda against the SRV' and 'carrying out activities aimed at overthrowing the people's administration.' In March 2016, Tran went on a 13-day hunger strike to protest misconduct by prison guards, including arbitrary restrictions on prisoner's rights. In May 2016, he was transferred to a camp some 1,400 kilometers from his home town. On 29 August 2012, the UN Working

¹ <https://www.oecd.org/site/adboecdanti-corruptioninitiative/46817423.pdf>

² <https://www.hrw.org/news/2017/06/21/vietnam-new-law-threatens-right-defense>

Group on Arbitrary Detention (WGAD) concluded that he was detained arbitrarily.³ Tran's eyesight is reported to be affected by his prison conditions.⁴

2. Nguyen Van Dai (born in 1969), journalist, blogger and human rights lawyer, former member of Hanoi Association of Lawyers, co-founder of the Human Rights Committee and the Brotherhood for Democracy (2013). Nguyen Van Dai provided legal assistance to human rights defenders and religious minorities. On 16 December 2015, Nguyen Van Dai and his colleague Le Thu Ha (f) were arrested for 'conducting propaganda against the SRV'. He has been held in pre-trial detention ever since. Nguyen Van Dai has not been permitted to meet with his legal counsel and has only been able to meet with his wife on two occasions.⁵ According to the Vietnamese Code of Criminal Procedure, Nguyen Van Dai's lawyers will be allowed to meet with him to prepare his defence once the police agency completes its investigation. Nguyen Van Dai served a previous four-year prison sentence (2007-2011) for the same 'offence'. After his release, he was subjected to harassment, attacks and serious threats to his life and his family. For example, on 11 December 2015, the spokesperson of the UN High Commissioner for Human Rights condemned an attack on him five days earlier by masked men alleged to be plainclothes policemen⁶. In an opinion adopted on 25 April 2017, the WGAD concluded that he was detained arbitrarily.⁷ There are concerns for his health. In August 2017, Nguyen Van Dai's lawyer announced that he now faces additional charges under article 79 of the penal code. Between July and September 2017, five other members of the Brotherhood for Democracy and former prisoners of conscience **Nguyen Bac Truyen, Nguyen Trung Ton, Pham Van Troi, Truong Minh Duc** and **Nguyen Van Tuc** have been re-arrested. All of them reportedly face charges under article 79 of the penal code.

3. Nguyen Ngoc Nhu Quynh (born in 1979), pen-name Me Nâm (Mother Mushroom), prolific blogger, human rights defender, co-founder of the Vietnamese Bloggers Network. Arrested on 10 October 2016, she was subsequently convicted of 'conducting propaganda against the SRV' and sentenced to 10 years in prison on 29 June 2017. The indictment referred to several hundred Facebook posts as well as a document entitled "Stop police killing civilians – SKC" thought to have been found at her home and which contained information on 31 individuals who had been found dead in police custody in Viet Nam. Me Nâm has faced consistent harassment at the hands of the Vietnamese authorities as a result of her work since 2009; such harassment has included detentions, travel bans, physical assaults and threats to her life and her family.⁸ All requests by her family and lawyer to visit her have been denied. There are concerns for her health. The UN High Commissioner for Human

³ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/182/93/PDF/G1218293.pdf?OpenElement>

⁴ <https://www.amnesty.org/en/documents/asa41/6234/2017/en/>

⁵ <https://www.frontlinedefenders.org/en/case/case-history-nguyen-van-dai>

⁶ <http://www.un.org/apps/news/story.asp?NewsID=52793#.WXpQLojuUk>

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http://www.ohchr.org/Documents/Issues/Detention/Opinions/Session78/A_HRC_WGAD_2017_26.pdf

⁸ <https://www.hrw.org/news/2017/06/28/vietnam-free-blogger-mother-mushroom>

Rights called for her release on 14 October 2016⁹ and the WGAD concluded that she was arbitrarily detained in an opinion adopted on 25 April 2017.¹⁰

The Assembly of Delegates of PEN International therefore urges the Vietnamese authorities to:

- Release immediately and unconditionally **Tran Huynh Duy Thuc, Nguyen Van Dai, Le Thu Ha, Nguyen Bac Truyen, Nguyen Trung Ton, Pham Van Troi, Truong Minh Duc, Nguyen Van Tuc, Nguyen Ngoc Nhu Quynh** and all other persecuted writers, including bloggers, poets and journalists, lawyers, human rights defenders held solely on account of their peaceful exercise of their right to freedom of expression;
- Cease the practice of releasing imprisoned writers into enforced exile abroad;
- Cease all attacks, harassment and threats against individuals who hold dissenting views or who call for freedom of expression, religion or belief;
- End the confiscation of passports of dissidents or former prisoners and bans on foreign travel;
- Guarantee the right to due process of law, to a fair trial with independent judges and lawyers;
- Improve conditions in prison and forced labour camps to meet internationally recognised standards for detention, ensuring that all detainees receive all necessary medical care;
- Facilitate prisoners' family visits, including by ensuring all detainees are held in facilities within a reasonable distance of their homes;
- Prohibit all forms of torture and ill-treatment, including prolonged solitary confinement, and investigate all reports of such treatment immediately and impartially, bringing perpetrators to justice and granting compensation to victims;
- Repeal all provisions in the laws of Viet Nam that criminalise dissenting views and freedom of expression on the basis of imprecisely defined 'national security' crimes, including Articles 79, 87, 88, 245 and 258 of the Penal Code;
- Abolish all censorship, mass surveillance and unlawful¹¹ restrictions on freedom of expression and freedom of the press;
- Ensure the rights to freedom of expression, peaceful assembly and association are fully protected, including the right to be informed by all means, both online and offline, in compliance with the Articles 19, 21 and 22 of the ICCPR.

⁹<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20679&LangID=E#sthash.XZ2Sx6EL.jAB6nwoh.dpuf>

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http://www.ohchr.org/Documents/Issues/Detention/Opinions/Session78/A_HRC_WGAD_2017_27.pdf

¹¹ Legitimate restrictions on freedom of expression must meet a stringent three-part test: they must be provided in law, be for specified permissible purposes and must be demonstrably necessary and proportionate for the achievement of one of those permissible purposes.