

UN Universal Periodic Review of Vietnam's Human Rights Record
Questions submitted by International Human Rights Society and Boat People SOS

RULE OF LAW

Vietnam signed the International Covenant on Civil and Political Rights (ICCPR) in 1982. Since late 2006 Vietnam has arrested and sentenced some one hundred dissidents, religious leaders, and activists engaged in peaceful civil rights and human rights activities.

(1) Vietnam has not amended the provisions of its Penal Codes (1999) relating to the freedoms spelled out in the ICCPR to comply with international standards. In 2006 Vietnam signed the Law on Signing, Joining and Implementing International Conventions; Article 6 of this law specifies that *"In the event that Vietnamese legislation conflicts with international treaties, to which Vietnam is a State party, then the regulations of international treaties apply."* However, this article has not been implemented with regards to the recent arrests and sentencing of political dissidents, human rights activists, and religious leaders. How will Vietnam resolve this disparity and what is Vietnam's timeline to amend its Penal Codes to comply with the ICCPR?

(2) In Vietnam's Penal Codes, provisions under "Crimes against national security" use terms and definitions that are broad and vague, leaving the interpretation up to the Vietnamese authorities' discretion. Such discretionary interpretation has resulted in violations or limitations of the freedoms specified in the ICCPR. This issue was brought to Vietnam's highest court, which declined to consider it. Does Vietnam intend to work on this interpretation problem in order to comply with the ICCPR?

(3) Article 120 in Vietnam's Law on Criminal Prosecutorial Procedures (Luat To Tung Hinh Su) allows the temporary detention, for up to 4 months, for investigation of suspects viewed as threats to national security. This temporary detention may be renewed three times, totalling 16 months. During this entire period, the detainees are usually not allowed visits by relatives or legal counsels. Essentially they are denied the right to legal assistance at the time of arrest and the right to challenge the legality of their deprivation of liberty. Does the Vietnamese government consider amending or eliminating this provision?

(4) Vietnamese judges are not dependent from the communist party and the government. What is Vietnam's plan to ensure independence of the judiciary branch in general and the judges in particular?

(5) Many human rights and civil rights activists have been frequently hindered in their activities by the public security police, which bars them from leaving their homes for many days without any explanation, valid reason, or lawful order or warrant. How will the Vietnamese government end such abuses of authority.

PRISONERS

(1) Many political prisoners are detained at locations far from the place of residence of their loved ones, resulting in extreme hardship for family members to visit the detainees. A number of such detainees have not been visited by their families for years. Is Vietnam willing to change this practice of detaining political prisoners far away from home and also to allow prison visits by the American Red Cross and similar international NGOs?

(2) Ill treatment and torture have been frequently used as part of the interrogation at police stations, temporary detention centers, and prisons. How will the Vietnamese government stop such practice in order to comply with international norms?

(3) Legal aid is an integral and important part of human rights defence. Many legal counsels have received threats against themselves or their family members after having consented to defend political detainees. Some have been debarred, physically assaulted, summoned to the police station for questioning, or harassed through administrative measures. What actions will the Vietnamese government take to defend such human rights defenders?

RELIGIOUS FREEDOM

(1) The implementation of the Ordinance on Beliefs and Religions varies among localities. This is a particular challenge for those organizations registering for specific activities (đăng ký sinh hoạt tôn giáo) as the applications are vetted by the local authorities. Are there standard criteria and procedures serving as guides? If not, will the CRA develop such standards?

(2) While such standards are being developed, one immediate step towards standardization is to establish a central office to address all inconsistencies as reported by religious organizations. The existence of such a central office, with a designated responsible official, will help detect inconsistencies and the areas needing standardization? Will the CRA consider setting up such an ombudsman office and in what time frame?

(3) Article 3.4 (Chapter I) of the Ordinance on Beliefs and Religions defines “religious units” (tổ chức tôn giáo cơ sở) as administrative committees of temples, Catholic congregations, Protestant branch organizations, Hoa Hao Buddhist administrative committees. Article 20 (Chapter IV) of the Decree on Implementing the Ordinance on Belief and Religion, only requires that these religious units register their agenda of religious operation (chương trình hoạt động tôn giáo) by October 15 of each year; if the People’s Committee does not object to such operation within 30 days, it is deemed as approved. How many of the 620 house churches in the Northwest Highlands affiliated with Evangelist Church of Vietnam – North (ECVN) qualify as religious units? How many of them are officially operating as religious units? Which ones?

(4) In cases of incorrect implementation of the Ordinance, is there a mechanism to remedy the situation? What is it? Is there a timeline for each resolution or intervention? Specifically, when can ECVN expect to see a satisfactory resolution of the situation facing its 620 house churches?

(5) There have been reports of harassment and even beating of Protestant leaders and followers in certain locations. For example, church leaders and followers of the Full Gospel Church in Dong Tien, Thanh Hoa, Trieu Son, Thanh Hoa were repeatedly harassed and threatened by the Village Chief Nguyen Van Quoc, Police Chief Tran Kha Tho, Village Commissar Nhu Mai Thoa, Deputy Chief of Police Le Dinh Quy. Similarly, the Full Gospel Church in Quang Yen, Thanh Hoa was harassed and obstructed by Yen Co Village Chief Le Van Thanh and Police Officer Le Van Hoa; when Pastor Nguyen Trung Ton filed a complaint, he was physically assaulted on August 29, 2008 by Police Officer Dam Van Ha. Has the CRA investigated such incidents and taken disciplinary actions against the local authorities?

(6) ECVN has tried to host a conference in Ha Noi to train leaders of its 1,000 religious units in the Northwestern Highlands. Will the government encourage and facilitate that conference? Similarly, the Full Gospel Church in Thanh Hoa plans to organize a convening of its pastors and house church leaders, the first time in many years; will the government authorize such a convening?

(7) Would the Committee on Religious Affairs be willing to host a seminar to explain the Ordinance and Decree to religious leaders, entertain their questions, and resolve issues affecting their church?

(8) Article 11 (Chapter 3) of the Decree states that recognized religious organizations are required to submit an application to form religious associations (hội đoàn tôn giáo). If the appropriate authorities do not respond within 45 days, the application is deemed as approved. Does this article apply to charity associations set up to provide assistance to the poor, to educate the public about health issues, to operate orphanages and private schools, or to publish faith-related newsletters?

(9) Does Mr. Tim Sakhorn, a former Khmer Krom Buddhist monk, currently hold Vietnamese or Cambodian citizenship? If the former, can he travel to Cambodia to see his relatives there? If the latter, will he be allowed to return to Cambodia? Can he travel to HCMC to meet with the USCIRF delegation?

(10) Please provide the following statistics:

- List of religious organizations with legal recognition;
- List of religious organizations approved for religious operation, the number of applications denied, the number of applications without a response within 90 days, and the number of applications rejected;
- List of religious organizations approved for specific religious activities, the number of applications denied, the number of applications without a response within 90 days, and the number of applications rejected;
- What are the common reasons for rejection?
- Is there a process to appeal such rejections?

(11) Article 8 of the Ordinance on Beliefs and Religions, promulgated in 2004, outlaws discrimination on the ground of religion. However, training materials, stamped “internal,” for cadres in charge of religious affairs call on such cadres “to resolutely subdue the abnormal, spontaneous development of Protestant Christianity,” and “to resolutely promote, encourage the return to traditional religions.” Under the guise of protecting and promoting traditional religions, the government has subjected ethnic minority Protestants in Northwest and Central Highlands to harassment, discrimination (e.g., excluding them from educational, social, and relief assistance), and in certain instances persecution. Many of these Protestants were denied citizenship certificate. Does the Vietnamese government plan to consistently implement its policy of protecting religious freedom and preventing abuses by local authorities?

(12) Since 1981, the Unified Buddhist Church of Vietnam (UBCV) has been outlawed by the government. Members of its leadership have been placed under “temple” arrest, or hindered in their movements. Does Vietnam intend to honor the religious freedom of UBCV and of its leaders and members?

(13) Many church members, journalists and political dissidents have been victimized and physically assaulted by members of state-controlled organizations such as Women's Association, Veterans Association, Communist Youth Association... Many of these assaults took place near or in government facilities, in the presence of the public security police or government officials. Neither the police nor officials intervened. What actions will the government of Vietnam take against the perpetrators?

(14) Would the Vietnamese government inform us of the exact number of ethnic minority individuals from the Central Highlands that have been detained since 2001, their whereabouts, and the reason for their long-term detention? Would the Vietnamese government verify the status and whereabouts of Montagnards in the attached list?

(15) In February 2007 over 200 Khmer Krom Buddhists staged a peaceful sit-in demonstration to demand the freedom to practice their own faith, the autonomy of their church—which had been absorbed into the Vietnamese Buddhist Sangha, and the return of their Buddhist temples. Many of these monks and other Khmer Krom Buddhists were assaulted, detained, sentenced, and imprisoned. Would the Vietnamese government accord the Khmer Krom Buddhist Church legal recognition separate from the Vietnamese Buddhist Sangha? Would Vietnam allow free and open access for international NGOs to Khmer Krom Buddhists who have been reportedly subjected to mistreatment or abuses by local government officials?

LABOR RIGHTS AND LABOR TRAFFICKING

(1) In many contracts that the labor export companies require workers to sign before their departure for the destination countries, there are provisions barring the workers from participating in labor unions, political organizations or religious activities. What actions will the Vietnamese government take to stop such a practice, which violates basic human rights?

(2) In many instances, victims of labor trafficking filed petitions to request government intervention and protection. Instead of investigating the perpetrators, government officials and the police have threatened, harassed and questioned the victims, stonewalling their efforts to seek justice and compensation. Several victims who were vocal were physically assaulted by individuals believed to be associated with the labor export companies. How willing is the Vietnamese government to protect the victims, investigate the labor export companies, and prosecute government officials involved in labor trafficking or in covering up for labor traffickers?

(3) Does Vietnam intend to recognize labor trafficking as human trafficking? Are there safeguards in the law to protect exported workers from being trafficked and to prosecute labor traffickers? How many cases of labor trafficking has the Vietnamese government investigated and prosecuted over the past 5 years, 10 years?

(4) How has Vietnam addressed known cases that fit in the UN definition of labor trafficking, including cases featured in the US Trafficking in Persons (TIP) reports? In the Daewoosa American Samoa case, the largest labor trafficking case ever prosecuted by the US government, has Vietnam investigated the two state-owned labor export companies (Tourism Company 12 and International Manpower Supply), prosecuted their officials, and paid the victims \$3.5M as ruled by the High Court of the American Samoa? In the W&D Apparel case in Jordan, featured in the 2008 TIP report, has the government of Vietnam investigated the three labor export companies (LEAPRODEXIM, V-COALIMEX and LETCO)? Similarly, in the Esquel Malaysia case, also featured in the 2008 TIP report, has Vietnam investigated the

labor export companies, Chau Hung in particular, involved in the export of workers to Malaysia?

(5) Will the Vietnamese government allow open and free access to the victims of labor trafficking, especially in cases recognized as such by the US or international community, for International Organization for Migration (IOM) and local and foreign NGOs to provide re-integration assistance?

(6) Will the Vietnamese government consider designating a specific high-level (sub-cabinet) position, situated in an agency separate from MOLISA and any agency involved in labor export, responsible for addressing and resolving all reported cases of labor trafficking?

(7) Does Vietnam intend to sign the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Transnational Organized Crime? If so, when?