

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences

REFERENCE :

27 May 2016

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on freedom of religion or belief; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, 25/18, 22/20, 25/13, and 23/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **arbitrary imprisonment and torture of Pastor Nguyen Cong Chinh and the torture and harassment of Mrs. Tran Thi Hong, both members of the Lutheran American-Vietnamese Protestant Church in Gia Lai province.**

According to the information received:

On 28 April 2011, Pastor Nguyen Cong Chinh was arrested in Gia Lai province for "undermining national unity policy", under article 87 of the Criminal Code of Vietnam, based on his religious activities as the leader of the Lutheran American-Vietnamese Protestant Church in Gia Lai province. Pastor Nguyen Cong Chinh was the subject of a previous communication submitted by the Special Rapporteur on freedom of religion or belief on 10 November 2004, see E/CN.4/2005/61/Add.1.

During his pre-trial detention, Pastor Nguyen Cong Chinh was tortured in attempt to obtain a forced confession. Interrogators used electric shocks, beat him with rubber sticks and sprayed pepper at him. He was also deprived of any contact with his family for a period of two years.

On 31 July 2012, the Appellate Court sentenced Pastor Nguyen Cong Chinh to 11 years in prison. He is currently serving his sentence in Phuoc Detention Camp, in Binh Duong province. While in prison, and also during the time the trial took place, he has been repeatedly tortured by guards using batons, stun guns and pepper spray. Prison guards do not allow him to conduct prayers in his cell. He has also been deprived of water for hygiene and kept in solitary confinement for extended periods of time. His health condition has progressively deteriorated as a result.

Pastor Nguyen Cong Chinh's wife, Mrs. Tran Thi Hong, and their four children (three boys and one girl, aged five to 13 years old) have also been subjected to persecution by Government officials. After their family home, which also served as chapel, was demolished by the Government, they have not been able to settle down, as officials intimidate landlords to expel them from any house they rent. So far, they have had to change their domicile 23 times. The police have ostensibly been following family members, including the four children on their way to school, as an attempt to intimidate them.

On 7 March 2016, while Mrs. Tran Thi Hong was away meeting officials of the U.S. Consulate General in Saigon to denounce the persecution suffered by her and her husband, the police raided her domicile and requested to verify household documents, in the presence of Mrs. Tran Thi Hong's young children.

On 30 March 2016, officials of the U.S. Consulate General and Mr. David N. Saperstein, U.S. Ambassador-at-Large for International Religious Freedom, visited Ms. Tran Thi Hong at her domicile, where she informed them of the persecution suffered by her and her husband at the hands of the Government.

At 8.30 a.m., on 14 April 2016, police officers in civilian clothes arrested Mrs. Tran Thi Hong at her domicile in Gia Lai province allegedly in retaliation for having met U.S. officials. Police officers, who did not identify themselves, said they were "inviting" her to a "working session" at the People's Committee Office. When Mrs. Tran Thi Hong said she had to take care of her children and could not go, three of the police officers grabbed her and pushed her into a car stationed in front of her domicile.

Mrs. Tran Thi Hong was taken by car to the People's Committee Office of Hoa Lu Ward, in Pleiku city, Gia Lai province. At her arrival, they forcefully took her

to a room on the third floor. When she asked to be released, she was slapped twice on her face by an unidentified female guard. The six persons in the room, three women and three men, were unidentified and wearing civilian clothes. The three women held her and kept her head down on a sofa while the three men kicked and punched her repeatedly. While they were beating Mrs. Tran Thi Hong, the guards asked for information on the meeting she held with the U.S. Ambassador-at-Large for International Religious Freedom, and commanded her to cooperate with them. The guards used abusive language against her. They accused her husband Pastor Nguyen Cong Chinh to be an anti-Government and anti-communist element. The beating, which went on for around three hours, left Mrs. Tran Thi Hong in excruciating pain, with her legs swollen and bruised, and unable to speak.

After Mrs. Tran Thi Hong repeatedly refused to provide information or cooperate with her captors, they left the room, and a police officer in uniform entered. She told Mrs. Tran Thi Hong she was free to leave, but she was lying on the floor and unable to walk as a consequence of the beating. She crawled out of the room and to the staircase, where guards lifted her from the floor and carried her downstairs. They took her into a car, and drove her to the vicinity of her domicile. They opened the door and threw her out of the vehicle. Her neighbors found Mrs. Tran Thi Hong injured and unable to move; they documented her condition on mobile phone photographs and helped her into her house. The police surveillance and harassment against Mrs. Tran Thi Hong still continues.

At 9.40 a.m. on 27 May 2016, Mrs. Tran Thi Hong was arrested again by the authorities and her whereabouts are unknown.

Both Pastor Pastor Nguyen Cong Chinh and Mrs. Tran Thi Hong belong to the Lutheran American-Vietnamese Protestant Church. The Church applied for official registration in 2010, but its application was rejected by the Government.

Grave concern is expressed about the persecution and torture against Pastor Pastor Nguyen Cong Chinh and Mrs. Tran Thi Hong, and the acts of intimidation against their children, which are allegedly taking place in retaliation for the peaceful exercise of their religious freedom and freedom of association, and their cooperation with U.S. diplomats in order to denounce their situation and promote freedom of religion in Vietnam.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to bring to the attention of your Excellency's Government article 18 of the International Covenant on Civil and Political Rights (ICCPR), which Viet Nam acceded to on 24 September 1982, that guarantees the right of every individual to

freedom of thought, conscience and religion and bans any coercion which would impair this freedom.

Furthermore, we would like to refer to articles 19 and 22 of the ICCPR that guarantee the rights to freedom of opinion and expression, and freedom association, respectively, as well as operative paragraph 2 of Human Rights Council resolution 24/5 in which the Council “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... including persons espousing minority or dissenting views or beliefs”.

In addition, without expressing at this stage an opinion on the facts of the case and on whether the detention of Pastor Nguyen Cong Chinh and Mrs. Tran Thi Hong is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights, and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

In relation to the alleged detention and torture against Pastor Nguyen Cong Chinh, we would like to recall the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, which states that the right to freedom of religion includes the right to appoint or elect appropriate leaders. With regard to the alleged torture and harassment against Mrs. Tran Thi Hong, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Vietnam ratified on 5 February 2015. And we would like to recall that the Committee on the Elimination of Discrimination against Women in its general comment No. 19 (1992) defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (ratified by your Excellency's Government on 17 February 1982). Thus, the Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay.

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5, 6 and 12.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In light of the foregoing and while waiting for your response, **we urgently appeal to your Excellency's Government to release Pastor Nguyen Cong Chinh and Mrs. Tran Thi Hong, to cease all harassment against them, and to protect their physical and psychological integrity.** We appeal to your Excellency's Government to prevent the detention of any individual based on their membership of a religious group.

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

2. Please provide information concerning the whereabouts of Mrs. Tran Thi Hong, the legal grounds for the arrest of both individuals concerned, as well as the legal basis for the charges against Pastor Nguyen Cong Chinh. In particular, please explain the justification for applying article 87 of the Criminal Code of Vietnam in this case and how this is compatible with international human rights law, including article 18, 19 and 22 of the ICCPR.

3. Please indicate what measures have been taken to ensure that the physical and psychological integrity of the individuals concerned is guaranteed.

4. Please provide detailed information about any investigation that may have been undertaken in relation to the alleged torture and harassment against Mrs. Tran Thi Hong. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

5. Please indicate any remedial action that has been or is being taken vis-à-vis the victims aforementioned.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

After having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may take up the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Appeals like the present letter — which are of a purely humanitarian nature — in no way prejudice any opinion the Working Group may render. The Government is requested to respond separately, both to the urgent action procedure and the regular procedure.

We may publicly express our concerns in the near future as this is a serious matter warranting immediate attention. We are of the view that the information upon which the press release would be based is sufficiently reliable.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Juan Ernesto Mendez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Michel Forst
Special Rapporteur on the situation of human rights defenders

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

José Guevara
Vice-Chair on individual complaints of the Working Group on Arbitrary Detention

Dubravka Šimonović
Special Rapporteur on violence against women, its causes and consequences