
VIET NAM

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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In 2010-2011, human rights violations are said to have increased over the year under Viet Nam's chairmanship of the Association of Southeast Asian Nations (ASEAN). It remained very difficult to carry out human rights activities in Viet Nam, with freedoms of expression, association and assembly being severely restricted. Independent human rights organisations continued to be prevented from operating openly and legally in Viet Nam and new legislation further limited freedom of the media. In this context, pro-democracy activists, journalists and bloggers denouncing human rights violations as well as lawyers taking on human rights related cases continued to face multiple forms of repression, including judicial harassment and criminalisation, as the authorities sought to silence any form of dissent.

Political context

2010 was largely marked in the run-up to the 11th Congress of the Communist Party of Viet Nam (CPV), which took place in January 2011. The CPV reappointed Prime Minister Nguyen Tan Dung for another term in the Politburo, consolidating the Prime Minister's power for a second term. The Government further tightened its control on opposition voices and dissent, restricting freedoms of expression, association and assembly. In 2010, Viet Nam's chairmanship of the Association of Southeast Asian Nations (ASEAN) and its new human rights mechanism, the ASEAN Intergovernmental Commission on Human Rights (AICHR), did not have any tangible positive effect on the domestic human rights situation. On the contrary, human rights violations are said to have increased during this period.

The CPV continued to tightly control the media, relentlessly clamping down on any form of dissent, using a diverse set of tools, including the judiciary system and technical means such as blocking websites and interfering with the transmission of radio stations. Independent, privately-owned media is non-existent, and websites or blogs carrying opposition or critical media content, were again exposed to harsh reprisals by Government agencies. The CPV also controls the courts at all levels, and the latter are therefore not able to operate independently and impartially. In this context, political trials against persons calling for democracy or discussing subjects deemed controversial by the Government, including licenses for bauxite mines and territorial disputes with China, were increasingly frequent, and often based on trumped-up charges. Defence lawyers are considerably

limited in defending the interests of their clients. In that they are not allowed to propose witnesses and may only challenge the judges' rulings under very limited circumstances.

The authorities attempted to silence any dissenting voices in the run-up to the 11th Congress of the CPV. Indeed, in 2010 independent bloggers, journalists, peaceful democracy activists and religious leaders promoting tolerance and democracy, were targeted through a variety of means. The Government increasingly resorted to vaguely worded provisions of the Criminal Code, such as Article 79 ("subversion"), Article 88 ("conducting propaganda against the State") and Article 258 ("abusing democratic freedoms to infringe upon the interests of the State"). On-line critics were harassed, ill-treated, tortured and arbitrarily detained. Critical websites and blogs deemed "politically sensitive" by the authorities were blocked or closed down. Firewalls were widely used to prevent access to foreign news sources and critical opposition websites based outside the country experienced cyber attacks originating from Viet Nam¹. On April 26, 2010, the Hanoi People's Committee issued Decision No. 15/2010/QĐ-UBND, which obliges the owners of any place that offers public access to Internet in Hanoi to install a monitoring software, which enables authorities to track all on-line activities. It is feared that this measure will be extended to the rest of the country. In addition, a new media decree (Decree No. 2/ND-CP on Sanctions for Administrative Violations in Journalism and Publishing) was signed by the Prime Minister on January 6, 2011, and entered into force on February 25, 2011, to regulate the activities of journalists and bloggers².

Moreover, the country remained largely closed to international human rights scrutiny. While the Government allowed visits by two UN Special Procedures mandate holders in 2010³, it continued to remain closed to those with portfolios considered more controversial, such as the Special Rapporteurs on Freedom of Expression, on Summary Executions and on Freedom of Religion.

1/ For instance, at a press conference in Hanoi in May 2010, Lt. General Vu Hai Trieu, Deputy Director of the Ministry of Public Security's General Department of Security, announced that his department had "destroyed 300 bad Internet web pages and individual blogs". See Vietnam Committee on Human Rights (VCHR).

2/ Under this Decree, the publication of information "non-authorised", "not in the interests of people" or which reveals "State secrets" is considered as an offence. Moreover, the Decree provides new fines for journalists who refuse to disclose their sources or publish articles under pseudonyms.

3/ The UN Independent Expert on Minority Issues, Ms. Gay McDougall, carried out an official visit to the country from July 5 to 15, 2010, and the UN Special Rapporteur on Extreme Poverty, Ms. Magdalena Sepúlveda, visited Viet Nam from August 23 to 31, 2010.

Serious restrictions on freedoms of association and of peaceful assembly

In 2010-2011, it remained very difficult to carry out human rights activities in Viet Nam, as fundamental freedoms, in particular of association and peaceful assembly, were still severely restricted.

Although freedom of association is formally recognised by Article 69 of the 1992 Constitution of Viet Nam, in practice, independent human rights organisations and trade unions are banned. Only State-sanctioned associations are allowed to operate, such as the Viet Nam General Confederation of Labour, and NGOs are therefore forced into operating in exile, as for instance the Vietnam Committee on Human Rights (VCHR), which is based in France. All associative activity is strictly controlled by the CPV and guided by the Viet Nam Fatherland Front (VFF), an umbrella of “mass organisations” that has a constitutional mandate to “strengthen the people’s unity of mind in political and spiritual matters”. Moreover, Decree 88 on the “Regulations on the Organisation, Operations and Management of Associations” (2003) restricts the activities of associations exclusively to “contributing to the country’s socio-economic development” and makes no provisions for human rights activities or advocacy, neither by local nor international NGOs⁴.

Similarly, although freedom of peaceful assembly is guaranteed by Article 69 of the Constitution, it is almost impossible to exercise this right and hold demonstrations for the promotion and respect of human rights⁵. The police continued to use force in order to disband peaceful rallies, including peaceful demonstrations by farmers and peasants – known as

4/ Decree 88 defines six “socio-political” or “mass organisations”: the VFF, the Viet Nam Confederation of Labour, the Ho Chi Minh Communist Youth, the Viet Nam Peasants’ Association, the Viet Nam War Veterans Association and the Viet Nam Women’s Union, which are funded largely by the State and effectively serve as agencies of Government ministries. Defined as organisations with “political goals”, the role of mass organisations is to oversee the implementation of party policies at the grass-roots level. The Viet Nam Confederation of Labour, for example, has a constitutional mandate to “educate workers, employees and other labouring people to work well for national construction and defence”. See VCHR and FIDH report, *From “Vision” to Facts: Human Rights in Vietnam under its Chairmanship of ASEAN*, September 13, 2010.

5/ In order to stem public protests, the Government adopted Decree 38/2005/ND-CP, which prohibits demonstrations in front of State agencies and public buildings, and bans all protests deemed to “interfere with the activities” of CPV leaders and State organs. The “Directives for the Implementation of Decree 38” issued by the Ministry of Public Security in 2006 further prohibits gatherings of more than five people without permission from the State.

the “Victims of Injustice”⁶. For instance, in April 2010, sixty members of “Victims of Injustice” were pushed back violently by security officials when seeking to address their grievances with the provincial Complaints Office in Nghe An, near the border with Laos. Similarly, on February 21, 2011, the police disrupted a demonstration gathering about one hundred members of “Victims of Injustice” in Ho Chi Minh City⁷. On May 26, 2010, the police fired on villagers peacefully protesting against inadequate compensation for their land seized to build the Nghi Son Oil refinery, a six-billion dollars project in the province of Thanh Hoa, 200 km south of Hanoi. The villagers had tried to prevent trucks from unloading at the construction site, but had not engaged in any act of violence⁸.

International human rights NGOs also faced interferences in their work. For instance, two FIDH representatives were informed that they were “not welcomed” by the Vietnamese Government-controlled organisers to participate in the ASEAN People’s Forum (APF)⁹ in Hanoi, from September 24-26, 2010. Shortly before this, under pressure from the Vietnamese Government, Thailand barred Mr. **Vo Van Ai** and Ms. **Penelope Faulkner**, President and Vice-President of the VCHR respectively, from travelling to Bangkok, Thailand, to launch a human rights report on Viet Nam at the Foreign Correspondents’ Club on September 11, 2011, thus illustrating the intolerance of the authorities towards any debate on the human rights situation in Viet Nam, either inside or outside the country.

Severe harassment against human rights defenders denouncing violations and calling for the respect for fundamental freedoms

Human rights defenders denouncing violations continued to be subjected to reprisals. For instance, Mr. **Vi Duc Hoi**, a pro-democracy activist who has extensively written on corruption and injustice in Viet Nam, was arrested on October 27, 2010. On January 26, 2011, he was convicted of “spreading anti-Government propaganda” and sentenced to eight years of imprisonment, followed by five years of house arrest. On April 26, 2011, his jail sentence was reduced to five years by an appeals court in

6/ In the framework of this rural protest movement, dispossessed farmers march to Hanoi or Saigon to file petitions and camp outside Government buildings protesting State confiscation of lands for development projects and lack of compensation. Peasants and farmers also routinely petition local “Citizens’ Complaints Offices” in the provinces, but they complain that local officials often refuse to settle complaints and even to receive them.

7/ See VCHR.

8/ *Idem*.

9/ The APF is a major civil society event bringing together several hundreds of civil society organisations and social movements active in the field of human rights, development and the environment in South East Asia.

northern Lang Son province, to be followed by three years' house arrest¹⁰. Moreover, following his temporary release for one year on medical grounds in March 2010, Father **Nguyen Van Ly**, a Catholic priest and supporter of the Bloc 8406¹¹ manifesto, issued a series of reports detailing and denouncing torture in prisons, and it was feared that he may be returned to prison to complete his sentence in March 2011. Yet, as of April 2011, he was still living in central Viet Nam, while remaining under constant surveillance¹². Other prominent human rights defenders detained under house arrest for denouncing human rights violations and calling for the respect for fundamental freedoms include Buddhist monk **Thich Quang Do**, leader of the Unified Buddhist Church of Viet Nam (UBCV)¹³, who is currently held at the Thanh Minh Zen Monastery in Ho Chi Minh City after spending more than 28 years in prison, house arrest and internal exile for his peaceful human rights advocacy. Among others, Thich Quang Do has issued numerous appeals for the rights of "Victims of Injustice", denounced the dangers of bauxite mining in the Central Highlands and campaigned against the death penalty. He is deprived of his citizenship and his freedom of movement, and all his visits are monitored.

Independent journalists and bloggers documenting human rights violations continued to face repression because of their activities. Although prominent blogger and human rights defender Mr. **Nguyen Van Hai (Dieu Cay)** should have been released from prison in October 2010, after having completed his prison term, as of April 2011, he remained detained under new charges of "propaganda against the State". He had been sentenced to two and a half years in prison on trumped-up charges of "tax evasion" in September 2008¹⁴. Furthermore, on January 20, 2011, at around 1 a.m., while Mr. **Le Hoang Hung**, a journalist who worked for *Nguo*

10/ See VCHR.

11/ Bloc 8406 is a coalition of political parties and groups in Viet Nam that advocate for democratic reform. The Bloc is named after the "Manifesto on Freedom and Democracy for Viet Nam", dated April 8, 2006, originally signed by 118 dissidents calling for a multi-party democratic State in Viet Nam.

12/ Father Ly had been originally arrested on February 19, 2007. He was sentenced on March 30, 2007 to eight years in prison. He suffered a stroke on November 14, 2009 and was subsequently transferred to Prison Hospital No. 198. His prison sentence was temporarily suspended for a year on March 15, 2010 on medical grounds and he was released from prison. See VCHR.

13/ The UBCV is a prohibited movement that peacefully promotes religious freedom, democracy and human rights. Banned effectively in 1981 following the creation of the State-sponsored Viet Nam Buddhist Church, UBCV leaders and members continued to be subjected to detention, intimidation and constant harassment. Despite repeated appeals from the international community, Viet Nam has not re-established its legal status.

14/ Dieu Cay, who is known for his articles calling for human rights and democratic reforms posted on Internet, has been unjustly accused of having failed for ten years to pay taxes on premises. Said taxes should have been paid by the owner of the premises not Dieu Cay, who was only renting them.

Lao Dong (Worker) newspaper, and his family were sleeping at his house in Tan An town, an unknown assailant doused the reporter with chemicals and set him on fire. Mr. Hung suffered third-degree burns on around 20% of his body and he succumbed to the severe injuries caused by the assault in a Ho Chi Minh City hospital on January 30. Prior to the attack, Mr. Hung had received several threatening text messages on his mobile phone from unknown numbers. He had written on issues affecting the Southern Mekong Delta for nearly ten years. In one of his most recent reports, he investigated alleged official misconduct regarding land disputes. The attack took place the evening before he was due to cover a court case in which a local official in the southern province of Long An is sued for illegal appropriation of land. The State press subsequently reported that he was killed by his wife over money issues. As of April 2011, the investigation was said to be still under way.

Judicial harassment of lawyers working on human rights cases

Lawyers taking on cases deemed sensitive by the authorities, including the defence of pro-democracy activists, journalists, bloggers and religious activists, and taking on corruption related cases, continued to face very harsh professional and personal consequences for their activities. Many of them were harassed, detained, disbarred, and even evicted from their homes. Their clients were frequently pressured into withdrawing their mandate. In some cases, the courts refused to grant them permissions to represent certain clients. Some of these lawyers were also charged with serious offences under the Criminal Code, including “subversion”, or “carrying out activities aimed at overthrowing the people’s administration”. As of the end of April 2011, Mr. **Le Cong Dinh**, a prominent human rights lawyer and the former Vice-President of the Ho Chi Minh City Bar Association, remained detained in Chi Hoa prison, Ho Chi Minh City, following his sentence on January 20, 2010 to five years in prison. Arrested on June 13, 2009, he was accused of “carrying out activities aimed at overthrowing the people’s administration”, after he acknowledged engaging in activities for the democratisation and a multi-party political system in Viet Nam. In recent years, he has also defended several Viet Nam human rights and democracy activists. On November 5, 2010, Mr. **Cu Huy Ha Vu**, a prominent human rights lawyer, was arrested and charged with “propaganda against the Socialist Republic of Viet Nam”¹⁵. Two weeks earlier,

15 / Mr. Ha Vu is a peaceful defender of cultural, environmental and civil and political rights and has consistently used the courts to seek justice for those whose rights have been violated by the Government and private actors. In July 2009, he initiated a lawsuit against the Prime Minister for signing Decision 167 in November 2007, which allowed controversial bauxite mining operations in Viet Nam’s Central Highlands.

on October 21, 2010, Mr. Ha Vu had filed a lawsuit against the Prime Minister for signing Decree 136 in 2006, which prohibits class-action petitions. On April 4, 2011, following a trial during which he was denied his right to a fair and public hearing by a competent, independent and impartial tribunal, Mr. Cu Huy Ha Vu was sentenced by the Hanoi People's Court to seven years of imprisonment and three years of house arrest.

Moreover, the practice in Viet Nam, the practice that persons serving their term – even when they are released – continue to be placed under house arrest, remains. For example, human rights lawyers and pro-democracy activists **Le Thi Cong Nhan**, a member of the Committee for Human Rights in Viet Nam and Spokeswoman for the Viet Nam Progression Party (VNPP), and **Nguyen Van Dai**, founder of the Committee for Human Rights in Viet Nam, who were arrested in March 2007 and sentenced on May 11, 2007 to four and five years in prison respectively for “conducting propaganda against the Socialist Republic of Viet Nam”¹⁶, were released on March 6, 2010 and March 6, 2011 respectively, after completing their sentence. However, as they were also condemned to three and four years' house arrest, they both remained under house arrest as of April 2011, deprived of the rights to travel and communicate freely.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Le Cong Dinh	Sentencing / Judicial harassment	Joint Press Release	January 20, 2010
FIDH	Obstacles to freedom of assembly	Press Release	September 21, 2010
Mr. Le Hoang Hung	Assassination	Joint Press Release	February 3, 2011
Messrs. Cu Huy Ha Vu, Pham Hong Son and Le Quoc Quan	Sentencing / Arbitrary detention / Harassment	Joint Open Letter to the authorities	April 7, 2011

16 / In November 2007, the Hanoi Appeals Court decided to reduce their sentences to four and three years' imprisonment respectively, followed by four and three years' house arrest.