

VIETNAM COMITE ON HUMAN RIGHTS  
QUÊ ME: ACTION FOR DEMOCRACY IN VIETNAM  
Ủy ban Bảo vệ Quyền làm Người Việt Nam



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**TOM LANTOS HUMAN RIGHTS COMMISSION HEARING**  
**Vietnam: Continuing Abuses of Human Rights and Religious Freedom**  
**Tuesday 15 May 2012, 340 Canon Building, Washington D.C.**

**ARBITRARY DETENTION OF**  
**PRO-DEMOCRACY AND RELIGIOUS ACTIVISTS IN VIETNAM**

**Testimony by VO VAN AI**

President, Quê Me: Action for Democracy in Vietnam &  
Vietnam Committee on Human Rights

Honorable Chairman,  
Distinguished Members of Congress,

Thank you for giving me this opportunity to testify at this important hearing and express my concerns on continuing abuse of human rights and religious freedom in Vietnam. Today, many Americans believe that the strengthening of US relations with Hanoi means that human rights are improving in Vietnam. But this is far from the case. After a brief period of respite in 2006, when Vietnam campaigned for membership of the World Trade Organisation, the government has pursued a systematic crack-down on freedom of opinion, expression, religion and assembly. Arbitrary detention, torture and harassments are the daily lot of citizens who express opinions in contradiction with the ruling Communist Party of Vietnam.

The United Nations defines arbitrary detention as the deprivation of freedom of people who have simply exercised the rights enshrined in the UN Charter, or are imprisoned without due process of law. Vietnam ratified the UN International Covenant on Civil and Political Rights in 1982, exactly thirty years ago, and its Constitution guarantees the respect of basic rights. But there is a huge gap between rhetoric and reality in Vietnam. In a series of political trials since the beginning of last year alone, the government has sentenced at least **45 peaceful activists** to a total of **231 years in prison and 103 years probationary detention**. Just this week, former political prisoners in Vietnam sent me a list of **177 prisoners** currently detained for their peaceful opinions and beliefs. I submit this list for entry in the Congressional record.

As this Hearing takes place, arbitrary arrests continue unabated. I cite some random cases, which are by no means exhaustive, to illustrate the Orwellian nature of the legal system in Vietnam today:

- For the crime of peaceful advocacy, blogger **Dieu Cay** (Nguyen Van Hai), whom President Obama mentioned in his speech on Press Freedom Day earlier this month, is arbitrarily detained. Founder of the Club of Free Journalists, he was sentenced to 30 months in prison on trumped-up charges of “tax evasion” after staging anti-China protests during the Olympic torch relay in 2008. Alerted to his plight by my Committee, the UN Working Group on Arbitrary Detention declared his imprisonment a violation of international law. On the day of his release in October 2010, he was re-arrested on new charges of “spreading anti-socialist propaganda” (Article 88 of the Penal Code). He has been detained incommunicado for the past 17 months. Dieu Cay should have stood trial today, 15<sup>th</sup> May, along with two other bloggers, **Phan Thanh Hai** and **Ta Phong Tan**. But Hanoi postponed the trial only hours after President Obama’s statement. In Vietnam, prison sentences are fixed in advance. Dieu Cay has been pressured to plead guilty to seek a lighter sentence, but he has refused. He risks a prison term of up to 20 years. International pressure may help to reduce his sentence. But the truth is that he should never have been arrested at all;
- For the “crime” of distributing leaflets protesting land rights abuses and supporting dispossessed farmers known as the “Victims of Injustice” (*Dan Oan*), **Nguyen Ngoc Cuong** and his son **Nguyen Ngoc Tuong Thi** are serving a total of 9 years in prison. They were charged with “*spreading propaganda against the Socialist Republic of Vietnam*” (Article 88 of the Penal Code) at an unfair trial in Dong Nai in October 2011 . The sentence was confirmed on appeal;
- For founding an unofficial think-tank and writing articles on the Internet calling for democratic reforms, **Tran Huynh Duy Thuc** was sentenced to **16 years in prison** in January 2010 on charges of subversion (“*activities aimed at overthrowing the people’s administration*”, Article 79 of the Penal Code). Whereas other activists at the same trial, including human rights lawyer **Le Cong Dinh** and engineer **Nguyen Tien Trung** pleaded guilty and received sentences of three-and-a-half to seven years, Tran Huynh Duy Thuc denied that he had committed any crime. He received an extremely harsh sentence as punishment for his “stubborn attitude” ;
- For the “crime” of writing protest songs which are currently chanted by millions of young people inside and outside Vietnam, singer and composer **Viet Khang** (Vo Minh Tri), 34, was arrested on 23 December 2011 and is awaiting trial in the Security Investigation Office in Ho Chi Minh City. His mother has brought food parcels to the prison, but has not been allowed to see her son since his arrest. Another singer, **Tran Vu An Binh**, detained since September 2011, is awaiting trial in the same prison;
- For exposing Police corruption, journalist **Nguyen Van Khuong**, pen name Hoang Khuong, is detained in Ho Chi Minh City charged with “*professional shortcomings*”. A reporter on the official *Tuoi Tre* (Youth) newspaper, Hoang Khuong wrote a series of articles revealing bribes received by traffic police. Although his articles proved to be true and led to the arrest

of one policeman, *Tuoi Tre* suspended Hoang Khuong and withdrew his press card after complaints from the Police. He was arrested on January 2, 2012 and is awaiting trial;

- For helping to organize a strike in a shoe factory in Tra Vinh and distributing leaflets advocating worker rights and denouncing seat-shop working conditions, young labour activist **Do Thi Minh Hanh**, 27, is serving a 7-year prison sentence on charges of "*disrupting security and order against the people's administration*" (Article 89 of the Penal Code). She has lost her hearing on one ear, and suffers from swelling of the joints and a stomach ailment. Two other worker-rights activists condemned at the same trial in 26 October 2010, **Nguyen Hoang Quoc Hung** and **Doan Duy Chuong** were sentenced respectively to nine and seven years. None of them had access to defense counsel, and were not allowed to speak out in their own defense.
- For seeking to use the legal system to demand accountability and justice for victims of human rights abuses, legal expert **Cu Huy Ha Vu** was sentenced to seven years prison and three years house arrest at an unfair trial on 4 April 2011 at the Hanoi People's Court on charges of "*anti-socialist propaganda*". Lawyer **Huynh Van Dong** was disbarred from the Dak Lak Bar Association on 12 August 2011 for (sic) "*advocating for the behavior of accused individuals*". He had defended seven land-rights activists at a trial in Ben Tre in May 2011, and protested against being denied access to vital legal documents. The prisoners, including **Tran Thi Thuy**, "Cattle shed" house church Pastor **Duong Kim Khai**, and **Pham Van Thong** received prison terms from two to eight years.

**Arbitrary arrest of religious activists is widespread.** Despite Vietnam's claims to respect religious freedom, its aim to control and regulate religions is underscored by the appointment of Major-general **Pham Dung**, one of Vietnam's top Public Security officials, as head of the Government Religious Board in February 2012;

- Buddhists belonging to the outlawed **Unified Buddhist Church of Vietnam** (UBCV) are routinely detained under "pagoda arrest". Vietnam's most prominent religious dissident **Thich Quang Do**, 84, Patriarch of the Unified Buddhist Church of Vietnam and Nobel Peace Prize nominee, is under house arrest without charge at the Thanh Minh Zen Monastery. He is forbidden to travel or communicate freely and denied the right even to preach within his monastery. Thich Quang Do has spent almost 30 years in prison, internal exile and house arrest for his nonviolent advocacy of religious freedom, democracy and human rights;
- At least 250 **Christians Montagnards** and many ethnic **Hmongs** are serving harsh sentences for participating in peaceful demonstrations or practicing their faith in "unrecognized" house churches. Many have been brutally beaten in prison, and at least 25 have died in prison from beatings and lack of medical care. Just last week, **on 9 May 2012**, three Christian Montagnards were arrested in the Central Highlands for "anti-state activities". The official press reported that Security forces had seized weapons that the "reactionary organization" was using "to oppose authorities" – they consisted of home-made bows, arrows and swords;

- Roman Catholic Priest **Father Nguyen Van Ly**, prominent religious freedom advocate, is in very poor health after suffering a stroke in prison. Released on compassionate leave in March 2010, he has now returned to Ha Nam prison to continue his 8-year sentence. Many **Catholic bloggers and activists**, mostly from the **Redemptorist Congregation** were detained in a wave of arrests in July-August 2011. At least twelve remain in custody, including Catholic bloggers **Le Van Son** and **Ta Phong Tan, Ho Duc Hoa, Dang Xuan Dieu** and **Nguyen Van Duyet**. Ten have been charged under article 79 of the Criminal Code for “*activities aimed at subverting the people’s power*”. Moreover, on 2 December 2011, 20 Catholics, including one priest, Father Nguyen Van Phuong, were arrested in Hanoi after they submitted a petition to the authorities demanding the return of Church lands.
- **Nguyen Van Lia**, 72, a dignitary of the Hoa Hao sect was sentenced to five years in prison on 13 December 2011, on charges of “*abusing democratic freedoms to infringe upon the interests of the state*” (Article 258 of the Criminal Code). He is detained in section K4 of Xuan Loc prison camp in Dong Nai. During interrogations, he was beaten, then detained in solitary confinement, and is now in very poor health. **At least sixteen Hoa Hao dignitaries and followers** are serving prison sentences from five years to life in prison for peacefully practicing their faith.

Vietnam is increasingly using “administrative measures” such as heavy fines to punish dissidents and human rights defenders without any process of law. On 8 November 2011, hundreds of Security Police broke into the home of writer **Huynh Ngoc Tuan** in Quang Nam, confiscating his laptop, printer, cell phone and other personal effects. They returned on 2<sup>nd</sup> December 2011, beat him and other members of his family, and read out an order condemning him, his daughter **Huynh Thuc Vy** and his nephew **Huynh Trong Hieu** to heavy fines for “*spreading anti-socialist propaganda*”. Huynh Ngoc Tuan previously spent 10 years in prison (1992-2002) for writing articles for democratic reform.

Vietnam frequently states in international forums that there are “*no political prisoners in Vietnam*”. However, many former political prisoners including lawyer **Nguyen Bac Truyen**, detained from 2006-2010 unequivocally deny this claim. Religious and political dissidents, they report, are detained in special sections of prisons, sometimes detained together with common criminals but always subjected to a particularly harsh regime. All their clothes and utensils are stamped with the letters C.T. (*chính trị* – “political” in Vietnamese). They are not allowed to use pens and paper, nor receive regular visits from their families.

All inmates, whether political prisoners or common criminals, must pay for basic necessities out of their own pockets, including supplements their starvation rations. But whereas common criminals are allowed to receive at least 2 million dong (about \$96) each month from their families, bloggers **Dieu Cay, Phan Thanh Hai** and **Ta Phong Tan** have been allowed no more than 500,000 dong per month. This is barely enough for minimal survival. The police-set prices in prison canteens run to 400,000 dongs for a kilo of sugar, 25,000 for a can of condensed milk or 300,000 dong for a pound of pork sausage. In the Security Investigations Office in Ho Chi Minh City where the three bloggers

are detained, many political prisoners are detained in solitary confinement in tiny cells without ventilation or light. Dieu Cay's glasses were confiscated by Police on his arrest.

Political prisoners who refuse to confess their "crimes" are often punished by being **moved to jails far away from their homes**. Since prison camps are usually situated in remote, isolated areas with very limited access, this makes it extremely difficult for families to pay visits. In March 2012, pro-democracy activists **Tran Kim Anh**, **Nguyen Xuan Nghia** and **Pham Van Troi** were sent from Nam Ha camp in Ha Nam province, south of Hanoi, to Camp No. 6 in Thanh Chuong district in the central province of Nghe An. Hanoi-based dissident **Cu Huy Ha Vu** was moved from Hoa Lo Prison in Hanoi to Prison Camp No. 5 in Thanh Hoa province in March 2012. The camp is in the depths of a mountainous, forest region some 200 kilometres south of Hanoi, and is notorious for holding violent common criminal detainees. His family was given no explanation for this sudden transfer.

Lack of medical care and overcrowded, unhygienic detention conditions have broken the health of many political prisoners. Hoa Hao follower **Mai Thi Dung**, who is serving an 11-year sentence in Section K5 of Xuan Loc Camp, is paralyzed in both legs, yet she has been denied treatment in the prison hospital. Political prisoner **Do Van Thai** is now suffering from HIV-AIDS after being forced to shave with the camp's sole razor blade used by all the prisoners. He is detained in Section K2 of Xuan Loc Camp in Dong Nai. Poet **Nguyen Huu Cau**, who has spent 35 years in detention since 1975 — from 1975-1980 in re-education camp, then 1982 until today for writing poems exposing official corruption — is virtually blind and almost completely deaf after being subjected to harsh detention conditions and deprived of medical care in Xuan Loc prison camp. He has written **500 letters to the authorities** claiming his innocence, but has never received a single reply.

Protests on issues of **land rights** have led to widespread arbitrary arrest, are becoming a major source of conflict between the people and the state. Under Vietnam's socialist system, "*the land is the property of the people*" but it is "*managed by the State*". Peasants and farmers do not own their land, but are issued with "Land User Certificates", which the authorities can withdraw at will, with little or no compensation. This has sparked off a massive rural protest movement known as the "Victims of Injustice" (*Dân Oan*) involving hundreds of thousands of dispossessed farmers. Police regularly crush these protests with extreme violence, resulting in deaths and widespread arrests. Since the beginning of this year, three incidents of state "land grabbing" have resulted in extreme violence. In January, in Tiên Lang, near Haiphong, farmer **Doan Van Vuon** resisted attempts to forcibly evict him from swamplands that he had spent 18 years transforming into a viable aquaculture farm. In desperation, he shot at the Police, wounding six officers. On 24 April, in **Van Giang**, in Hung Yen province, 3,000 Security Police and riot forces attempted to forcibly evict 166 families from their lands to build a massive development project (Ecopark), wounding and arresting many villagers. On 9 May 2012, in **Vu Ban, Nam Dinh** province, hundreds of riot police armed with electric truncheons sought to evict local farmers from their lands. The farmers, mostly women and elderly people, donned mourning turbans and staged a peaceful sit down. Many were wounded and other arrested as Police brutally disbanded their protests.

Vietnam's political and religious prisoners are mostly detained on the basis of vaguely defined "**national security**" provisions in the Vietnamese Criminal Code, seven of which carry the death penalty. They include ambiguous offenses such as "*undermining national solidarity, sowing divisions between religious and non-religious people*", (article 87), "*conducting propaganda against the Socialist Republic of Vietnam*" (Article 88), "*abusing democratic freedoms to encroach on the interests of the state*" (article 258), "*espionage*" (Article 80), "*disrupting security*" (article 89), "*fleeing abroad or staying abroad to oppose the people's government*" (article 91). In recent years, Vietnam has increasingly detained dissidents under Article 79 on "*subversion*" or "*activities aimed at subverting the people's power*" (article 79), which carries the death penalty. These "national security" provisions, which make no distinction between violent acts such as terrorism and the peaceful exercise of freedom of expression, are totally inconsistent with the UN International Covenant on Civil and Political Rights (ICCPR) to which Vietnam acceded in 1982.

Other restrictive legislation includes **Article 4 of the Constitution** which enshrines the political monopoly of the Communist Party, thus excluding political pluralism and the creation of free trade unions or independent civil society; **Ordinance 44** (2002) which empowers local police to detain critics under house arrest, in psychiatric institutions or in rehabilitation camps for up to two years without any process of law; **Decree 38/2005** which bans demonstrations outside government buildings, and the **Directions for Implementing Decree 38** (2006), which prohibit gatherings of more than 5 people without authorisation from the authorities; **Media Decree 2** (2011), which imposes drastic restrictions on journalists. The draft of a new **60-article decree on online activity** is now in circulation. If passed in its present form, the decree will impose more stringent restrictions on Vietnam's "blogosphere" and community of internet users, which represents some 13% of the 89 million population in Vietnam today.

## **Recommendations**

- Human rights are meaningless if human rights defenders are not free. Democracy cannot develop if democratic voices are stifled. It is therefore an **urgent priority to press for the release of peaceful political and religious prisoners** and foster the emergence of a vibrant civil society in Vietnam. To achieve this, both **public and private diplomacy is needed**. Public statements, such as the one made by President Obama this month are most important, not only as strong reminders to the Vietnamese authorities, but as a sign of encouragement and recognition for human rights defenders in Vietnam.
- The release of prisoners is only meaningful if it is protected by legal safeguards and the rule of law. Vietnam is currently receiving millions of dollars from donor countries, including the United States, to reform its legal system. Yet these funds are used to adopt new, restrictive laws which criminalize religious and political dissent and reinforce the control of the one-Party state. The United States should **urgently press Vietnam to repeal all legislation which impedes the exercise of rights enshrined in its Constitution and in the UN Charter**.

- In the absence of a pluralist society in Vietnam, **religious movements are the true voices of civil society** and they are actively defending the people’s freedoms and rights. Buddhism, Vietnam’s majority religion is a philosophy of peace, tolerance and compassion. It has vast human resources and is strongly committed to its people’s welfare. By repressing the Unified Buddhist Church of Vietnam (UBCV) and all other “non-recognized” religions, Hanoi is crushing true civil society and stifling the people’s development for generations to come. To promote the emergence of civil society, the United States should urge Hanoi to **re-establish the legitimate status of the UBCV and other non-recognized religious bodies, free their leaders and allow full freedom of religious activity.**
- In this regard, I urge the United States to heed the recommendations of the **US Commission on International Religious Freedom** and re-designate Vietnam as a **Country of Particular Concern (CPC)** for its egregious violations of religious freedom and human rights. Following CPC designation in 2004 and 2005, Vietnam made some minimal but important steps towards releasing religious prisoners and improving protection of religious freedom. These stopped outright when President Bush removed Vietnam from the CPC list in 2006.
- The United States has a **bilateral human rights dialogue** with Vietnam. This dialogue is a useful tool. But it must not become an end in itself. Disturbingly, Vietnam told the United Nations at its Universal Periodic Review in 2009 that its engagement in dialogue with the US, the EU and other countries “proves” that Vietnam respects human rights. This is surely not America’s view. The dialogue should lead to substantive progress. The United States should set benchmarks and a concrete time-frame for human rights improvements wherever possible, and ensure that Vietnam **does not use the human rights dialogue as shield to deflect international scrutiny from its egregious violations of religious freedom and human rights.**
- Vietnam rejected many concrete recommendations made by the United States at its Universal Periodic Review in May 2009, and it has failed to uphold its binding commitments to respect UN standards and norms. Unless there are swift and measurable improvements in Vietnam in the immediate future, the United States **should not support Vietnam’s stand for membership of the UN Human Rights Council for 2014-2016.**
- Promoting religious freedom, human rights and democracy should be inscribed in legislation regarding the US-Vietnam trade relationship. Congress should adopt legislation such as the **Vietnam Human Rights Act of 2012 (H.R. 1410)** to link trade relations to the respect of religious freedoms and human rights.

### **Recommended benchmarks for human rights progress in Vietnam**

Specifically, I urge the United States to press Vietnam to:

- cease persecution against the religious communities, re-establish the legitimate status of the Unified Buddhist Church of Vietnam and all other non-recognized religious bodies, and release all religious prisoners, including **UBCV leader Thich Quang Do**;
- release all dissidents, bloggers, lawyers, citizen journalists and human rights defenders detained for the peaceful exercise of their basic human rights (*see list in annex*);
- improve detention conditions in prisons and camps, and allow US diplomatic observers to visit prisons, notably K2 Section of Z30A Camp in Xuan Loc, Dong Nai;
- authorize the publication of private newspapers and media as a podium for democratic debate, and the creation of independent associations such as free trade unions and non-governmental organizations to foster the emergence of a vibrant and dynamic civil society in Vietnam;
- foster development of the rule law by repealing or amending all legislation that restricts the exercise of human rights and religious freedom, including Article 4 of the Constitution (on the mastery of the Vietnamese Communist Party); Ordinance 44 on “administrative detention”; Decree 38/2005/ND-CP on demonstrations; “national security” provisions in the Vietnamese Penal Code; Ordinance 21 on Beliefs and Religions (2004) which places tight controls on religious freedom in Vietnam;
- extend an invitation to the UN Representative on Human Rights Defenders and the UN Rapporteur on Freedom of Expression to visit Vietnam, and invite the UN Special Rapporteur on Religious Freedom and the UN Working Group on Arbitrary Detention to make follow-up visits to monitor the situation of human rights defenders and prisoners of conscience in Vietnam.

Vo Van Ai  
*Washington D.C., 15 May, 2012*