



**VĂN BÚT VIỆT NAM HẢI NGOẠI
VIETNAMESE ABROAD PEN CENTRE**

*Hiển dương những Tiếng Nói của Lương Tâm và các Tiếng Lòng Vang Vọng của người Việt Nam khắp thế giới
Promote the Voices of Conscience and the Echoes of Compassion of Vietnamese across the Globe*

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**SUBMISSION
TO THE OFFICE OF
THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS**

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I. INTRODUCTION

1. The **Vietnamese Abroad PEN Centre** (VNAPC) founded in 1978 is an organization of writers, poets, musicians and composers, *etc.*, from across the globe promoting Vietnamese literature and culture and to express deep concern for human rights' violations, especially those oppressive campaigns against writers, poets, musicians and composers, *etc.*, in Vietnam. The Vietnamese Abroad PEN Centre has many active members in Canada and the United States of America. The VNAPC's website is **PENVietnam.org** posting its long history, public programs and activities.
2. The Vietnamese Abroad PEN Centre appreciates the opportunity to contribute by way of submission on the current situation of serious human rights' violations in Socialist Republic of Vietnam (*hereinafter referred to as 'Socialist Vietnam'*), especially concerning the *freedom of association, freedom of thought and freedom of speech*.
3. VNAPC members hope that this Submission will illuminate Socialist Vietnam's repressive policy and, consequently, encourages the Vietnamese government to commit to change to respect democratic pluralism and basic human rights, including the *freedom of association, freedom of thought and freedom of speech*.

II. REPRESSIVE POLICY AGAINST VOICES OF CONSCIENCE

4. The *freedom of association, freedom of thought and freedom of speech* are guaranteed by the current Constitution of Socialist Vietnam as well as the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* to which the Vietnamese government agreed to adhere.
5. The fundamental rights of Vietnamese citizens are constitutionally codified, nevertheless, the Vietnamese government pays only lip service to such enshrined rights and repeatedly violated the said constitutionally guaranteed rights of citizens and, in particular, of writers, poets, musicians and composers, *etc.*, and social activists.
6. The Vietnamese government executes harsh measures and often abuses the Court system to:
 - 6.1. Continually suppress the *freedom of thought and freedom of speech*;
 - 6.2. Continually prevent the exercise of *freedom of association* by preventing writers to form independent associations, workers to form independent unions, farmers to form support groups, *etc.*; and
 - 6.3. Arbitrarily detain and prosecute activists including writers, poets, musicians and composers, *etc.*, who express opinions on important issues that the government does not wish to discuss openly.
7. Peaceful activists and human right advocates in Vietnam are constantly facing security force's harassment, beating and arbitrary arrest and subject to requested "*administrative interview*" (in reality, these interviews are illegal arrest and detention regularly conducted by local security officials).
8. The Vietnamese military also revealed in December 2017 that it has created *Force 47* of 10,000 cyber troops to fight "*wrongful views online*." Its purposes include identifying and harassing advocates with "*wrongful views online*."

III. SUPPRESSING THE FREEDOM OF THOUGHT AND FREEDOM OF SPEECH

9. Vietnam's 2013 Constitution stipulates that "*The State guarantees and promotes the People's mastery; acknowledges, respects, protects and guarantees human rights and citizens' rights; implements the objectives of prosperous people, state powers, democracy,*

justice, civilisation, and all that people enjoy that is abundant and free for a happy life with conditions for all-round development.” (Article 3).

10. In reality, “*human rights and citizens’ rights*” are not respected by the Vietnamese government which undertakes two (2) approaches to suppress these fundamental rights:

- A) the state’s complete control over the flow of information; and
- B) the state’s use of the Penal Code to detain and prosecute all persons voicing opinions contrary to the official state position.

III.A Information Control: All media outlets are controlled by the Vietnamese government through editorial and licensing officials appointed by the Vietnamese Communist Party through the *Ministry of Information and Communication*.

11. Independent associations of writers and journalists are not recognized by the Vietnamese governments, and thus their leaders and members are under surveillance.

12. Complete censorship is the official policy that is strictly followed. No material could be published or distributed without the consent of screeners approved by the *Ministry of Information and Communication*. Underground publishing does exist but at the risk of prosecution and lengthy imprisonment. Vietnam’s current *Law On Publication* (2012) “*applies to agencies, organizations, individuals and foreign organizations operating in Vietnam, foreign individuals residing in Vietnam related to publishing activities*” (Article 2) and contains rules that are both broad and extremely vague, and therefore opens to unlimited abuses by public officials:

“1. Seriously prohibiting the publishing, printing and release of publications with the following contents:

- a) Conducting propaganda against the Socialist Republic of Vietnam and destroying the unity of the whole nation;
- b) Conducting propaganda and incitement war of aggression, causing hatred between nations and peoples; conducting incitement of violence; spreading reactionary ideology, obscene and depraved lifestyle, criminal acts, social evils, superstition and destruction of habits and customs;
- c) Disclosing the state secrets, personal secrets and other secrets prescribed by law;
- e) Distorting historical truth, denying revolutionary achievements; offending nation, well-known persons, national heroes; failing to express or properly express sovereignty; slandering and insulting the reputation of the agency, organization and dignity of the individual.

2. It is strictly forbidden to perform the following acts:

- a) Publishing without registration and publishing decision or publishing license;
- b) Changing, distorting the content of the manuscripts which have been signed for approval by or non-business document manuscript with the seal of the publishing licensing agencies;
- c) Illicit and false printing, illegal re-printing of publications
- d) Releasing publications without legitimate origin or failing to submit copyright deposit
- e) Publishing, printing and releasing publications which have been suspended from release, recovering, confiscating, banning from circulation, destroying or illegally importing publications;
- f) Other prohibited acts as prescribed by law.” (Article 10)

13. It is therefore virtually impossible to publish or distribute anything that is not pre-approved by Vietnam’s *Ministry of Information and Communication*.

14. In a recent case, in February 2018, the unapproved book entitled “*Chính trị bình dân*” (*Popular Politics*) by Đoàn Trang Pham was prohibited from distribution, and subsequently Ms. Doan Trang Pham had to go into hiding from Vietnam’s security force.

III.B Abuse of the Penal Code: The Vietnamese government often uses of the criminal law system to search, harass and prosecute all persons including writers and artists, who collect and share information and voice opinions contrary to the official state position.

15. Vietnam's 2013 Constitution stipulates that "1. All citizens are equal before the law. 2. No one shall be discriminated against based on his or her political, civic, economic, cultural or social life.." (Article 16) and "1. Everyone shall enjoy the inviolability of the individual and the legal protection of his or her life, health, honour and dignity and is protected against torture, violence, coercion, corporal punishment or any form of treatment harming his or her body and health and offence against honour and dignity. 2. No one shall be arrested in the absence of a decision by the People's Court, a decision or sanction of the People's Procuracy except in cases of flagrant offences. Taking a person into, or holding him in custody shall be decreed by statute." (Article 20)

16. In reality, the Penal Code and the Court system are used extensively by the Vietnamese government to prosecute all persons, including writers and social activists, whom it views as real or potential *enemies of the state*.

17. Various sections from tax evasion to attempted overthrowing the socialist government in the Penal Code are invoked in almost all cases that the Vietnamese government deems to be anti-Socialist even though, in many instances, the only act involved was the dissemination of information available publicly on the Internet.

18. It is interesting to note that Vietnam's Penal Code includes Chapter XV on "OFFENCES AGAINST PERSONAL LIBERTY, CITIZENS' RIGHTS TO FREEDOM AND DEMOCRACY" listing crimes for "*Illegal arrest, detention, or imprisonment of a person*" (Article 157), "*Infringement upon citizens' right to association*" (Article 163), "*Infringement upon the freedom of religion*" (Article 164), "*Infringement upon freedom of speech, freedom of the press, the right of access to information, and the right to protest of citizens*" (Article 167). Despite the numerous human rights' violations with well-documented evidence, no official has ever been charged and prosecuted by the Vietnamese government pursuant to these provisions.

IV. PREVENTING THE EXERCISE OF FREEDOM OF ASSOCIATION

19. The 2013 Constitution continues to place the Vietnamese Communist Party as the only political force in the country, and consequently the government does not tolerate the establishment of any group that is not controlled by the Communist Party thought the umbrella organization called *Fatherland Front (Mat Tran To Quoc*. Note that the term *Mat Tran* or *Front* used here portraying a constant war against non-Communist elements).

20. There are on-going efforts by writers to form independent associations, workers to form independent unions, farmers to form support groups, etc. These groups of citizens with common objectives, however, are not permitted to hold meetings freely, and their civilian leaders are harassed constantly and soon or later would face prosecution on drummed-up criminal charges.

21. In recent years the Vietnamese government viewed any group that raises concerns over China's territorial claims and/or the Formosa Ha Tinh's environmental disaster as an attack on the government, and thus it sought to prosecute anyone, who actively disseminated material facts on these subjects and the negative consequences faced by the affected victims such as fishermen, who lost their livelihood because of Formosa Ha Tinh's enormous chemical disaster or China's armed violence on the high sea.

V. ARBITRARY DETENTION AND PROSECUTION OF PEACEFUL ACTIVISTS

22. The legal system in Vietnam in form appears to protect all fundamental rights but, in practice, it is used to attack all rights exercised contrary to the Vietnamese Communist Party's interests and socialist directives. Sadly, the Court system is legislatively tasked with this anti-democratic purpose: "*The Courts have the task to protect the socialist legislation; to protect the*

socialist regime and the people's mastery" (Article 1, Law on Organization of the People's Courts).

23. As of the date of this Submission by the Vietnamese Abroad PEN Centre, there are at least 120 known (*and independently verified*) dissidents incarcerated because of their express political view. The Vietnamese government, however, claims that it detains no "political prisoner."

24. Beside political prisoners, there are prisoners of conscience including religious prisoners of conscience (a well-respected Buddhist monk, several Mennonite leaders, a Catholic priest and some lay Catholics).

25. Torture is commonly used in Socialist Vietnam's prisons causing death to known detainees and led to public outcries but the practice continues to be permitted by the Vietnamese government. Beside torture, every abusive tactic is used by the Vietnamese government against citizens possessing contrary views; such abuses include, but not limited to, arbitrary arrest, fabrication of evidence, denial of proper legal representation, barrier to access to public trials, predetermined verdicts, harsh sentences, *etc.*

VI. LATEST DEVELOPMENTS RAISING PARTICULAR CONCERN

26. May 2017: The severe sentences (12 and 13-year imprisonment) of two social activists, **Anh Kim TRAN** and **Thanh Tung LE**, were confirmed by the Vietnamese Appellate Court.

27. June 2017: Blogger *Maria Madalena Ngoc Nhu Quynh NGUYEN* (me Nam or *mother Mushroom*) was sentenced to 10 years for her social justice view.

28. July 25, 2017: the People's Court in Ha Nam sentenced **Nga Thi TRAN** to 9 years imprisonment followed by an additional 5 years of house arrest for "*using the Internet to spread propaganda videos and writings that are against the government of the Socialist Republic of Vietnam.*" Her health is deteriorating and she has been denied medical treatment. As a member of the *Vietnamese Women For Human Rights*, she helped to gather support for farmers whose land was confiscated by local authorities. She was beaten severely by security forces in 2015. On January 21, 2017, she was arrested and charged under Article 88 of the 1999 Penal Code for posting articles and videos on human rights' violations by the Vietnamese government.

29. February 1, 2018: **Dr. Hai Van HO** was sentenced to 4 years in prison following with 2 years probation for publishing articles on unjust situation in Vietnam on his Facebook accounts *Ho Hai* and *BS Ho Hai*. He was arrested on November 2, 2016 and held until he was tried and sentenced on February 1, 2018. Thirty six (36) of 75 articles by Dr. HO were considered by the Vietnamese authorities to be anti-government in violation of Resolution 72/2013/NĐ-CP about the use of Internet.

30. February 6, 2018: **Binh Duc HOANG** was sentenced to 14 years in prison for posting on Facebook numerous articles and self-made short videos on the demonstrations by victims in Nghe An anh Ha Tinh demanding compensation from Formosa following the enormous environmental disaster in April 2016.

31. April 5, 2018: The Vietnamese court handed down severe sentences against peaceful activists including writers and reporters:

Văn Đài NGUYEN, *attorney and blogger*, received 15 years imprisonment and 5 years probation.

Minh Đức TRUONG, *reporter and blogger*, received 12 years imprisonment and 3 years probation.

Trung Tôn NGUYEN, *minister and blogger*, received 12 years imprisonment and 3 years probation.

Bắc Truyền NGUYEN, *blogger*, received 11 years imprisonment and 3 years probation.

Thu Hà LE, *teacher and blogger*, received 9 years imprisonment and 2 years probation.
Văn Trội PHAM, *writer*, received 7 years imprisonment and 1 years probation.

32. In response to the continuing human rights' violations by the Vietnamese government, the Vietnamese Abroad PEN Centre issued our *Letter of Protest Condemning Human rights' violations in Vietnam in light of the Recent Trial of Peaceful Activists* in April 2018.

VII. RECOMMENDATIONS

33.1 The Vietnamese government must be demanded to unconditionally and immediately release the above-named activists and all other political prisoners.

33.2 Vietnam should actively investigate, charge and prosecute all officials and members of the security force. who infringed on citizens' fundamental rights including the *freedom of association, freedom of thought and freedom of speech* pursuant to applicable provisions of the Penal Code such as "*Illegal arrest, detention, or imprisonment of a person*" (Article 157), "*Infringement upon citizens' right to association*" (Article 163), "*Infringement upon the freedom of religion*" (Article 164), "*Infringement upon freedom of speech, freedom of the press, the right of access to information, and the right to protest of citizens*" (Article 167).

33.3 Vietnam must recognize and respect independent writers' organizations, independent workers' unions, farmer's support groups, *etc.*, as civil institutions with all the rights pertaining to civil institutions and organizations.

33.4 Vietnam should establish a permanent and independent human right monitoring body composed of independent members non-affiliated with the government or the Vietnamese Communist Party. This body is empowered by law and given resources to investigate, prosecute and punish any law enforcement or government official for human right violations.

33.5 Vietnam should submit quarterly public reports to the UN Human Rights Council (HRC) detailing any improvement in fundamental freedoms based on UN-approved benchmarks and recommendations.

33.6 Vietnam should remove all restrictions on public or private publications as well as free access to and distribution of political materials available on the Internet.

33.7 The Vietnamese government must return all buildings and lands confiscated from various religious and cultural organizations.

33.8 The Vietnamese government must return the building and land of PEN Vietnam that it seized in April 1975.

33.9 Vietnam should amend its Constitution to remove the Communist Party as the only leading political force in Vietnam to guarantee all citizens true democratic rights and fundamental freedoms.

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