



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/NGO/164
4 March 2005

ENGLISH AND FRENCH ONLY

COMMISSION ON HUMAN RIGHTS
Sixty-first session
Item 9 of the provisional agenda

**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD**

**Written statement* submitted by the International Federation for Human Rights (FIDH),
a non-governmental organization with special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 2005]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

VIETNAM

The International Federation for Human Rights (FIDH) and its affiliate, the Vietnam Committee on Human Rights (Vietnam Committee) are concerned by the numerous obstacles, both institutional and legal, to the adequate protection of fundamental rights in the Socialist Republic of Vietnam.

The organizations' concern is all the more pressing since Vietnam is embarking on a 10-year legal reform programme (*the Legal System Development Strategy*), financed by international donors and Western governments, which is ostensibly aimed to help build the rule of law. The fact that Vietnam persists in maintaining these instruments of repression and continues to adopt new restrictive legislation, despite the recommendations of United Nations human rights mechanisms, is incompatible with the establishment of the rule of law.

The FIDH and the Vietnam Committee have repeatedly denounced legislation such as Decree 31/CP on "*administrative detention*", adopted in 1997, which empowers local police to detain citizens suspected of committing, or intending to commit, breaches of "*national security*" for up to two years without trial. The U.N. Human Rights Committee also strongly condemned Decree 31/CP in its Concluding Observations on Vietnam (Ref. CCPR/CO/75/VNM, 26 July 2002). Since Decree 31/CP came into effect, it has been systematically invoked to detain peaceful dissidents engaged in the legitimate exercise of their right to freedom of expression, conscience and religion.

Today, many Vietnamese citizens are under "administrative detention", with various degrees of strictness, simply on account of their convictions, for their actions in support of reforms, democracy and human rights, or anti-corruption activities. Dissidents **Hoang Minh Chinh**, **Nguyen Thanh Giang**, **Pham Que Duong** and **Tran Khue** are currently under house arrest. Eleven dignitaries of the independent Unified Buddhist Church of Vietnam (UBCV, banned by the authorities in 1981) are detained under house arrest without trial following a fierce government crackdown in October 2003. In particular, UBCV Patriarch **Thich Huyen Quang** and the Very Venerable **Thich Quang Do** remain imprisoned in their pagodas, respectively in Binh Dinh province and Ho Chi Minh City.

Decree 31/CP is but one example of the broadly defined and "catch-all" legislation used by Vietnam to give a veneer of legality to its arbitrary practices and abuses of freedoms enshrined in the International Covenant on Civil and Political Rights (ICCPR). Such legislation, which has been strongly condemned by the Human Rights Committee, the Working Group on Arbitrary Detention (cf. *Visit to Vietnam*, E/CN.41/1995/31/Add.4, 18 January 1995) and the Special Rapporteur on Religious Intolerance (cf. *Visit to Vietnam*, E/CN.4/1999/58/Add.2, 29 December 1998), includes extensive "*national security*" provisions (Article 78 and following in the Vietnamese Criminal Code), or "*the abuse of democratic freedoms to threaten the interests of the State*" (article 258). Under this legislation, on the basis of apparently legitimate grounds, Vietnam is in fact repressing dissent and stifling all opposition.

Moreover, strong letters of protest have been recently addressed to the Vietnamese authorities by General Vo Nguyen Giap, hero of the battle of Dien Bien Phu (3.1.2004) and retired Major-General Nguyen Nam Khanh (13-page letter, 17.6.2004), denouncing

the crimes and power abuse of the Vietnamese Communist Party (VCP) military intelligence service, known as “General Department 2” (GD2). The GD2 “*wields excessive powers and [exercises] unlimited control*” declared Major-General Khanh. It can “*slander or sanction anyone, infiltrate its agents anywhere*”.

A veritable state within a state, accountable only to itself, the GD2 is endowed with unbridled powers which it uses to support, overthrow, and even frequently to suppress, members of different factions with the VCP. The letters cite several GD2 campaigns used to undermine high-ranking Party cadres and government officials, including the use of political assassination and physical and psychological torture against senior Cambodian communist cadres (*the Seam Reap Affair* in 1983).

Despite its incriminating past, the GD2 has acquired a “legal” covering with the adoption of the Ordinance on Intelligence Services, 14 December 1996, signed by the President of the National Assembly, and Decree 96/CP on Defence Intelligence, signed by the Prime Minister on 11 September 1997. These laws have undoubtedly made GD2 the country’s most powerful body, with an unlimited field of action and boundless powers.

Deeply disturbed by GD2’s actions within the core of the ruling Communist Party, the FIDH and the Vietnam Committee condemn the exactions perpetrated against Vietnamese citizens who simply seek to exercise their legitimate freedoms and rights. Prime victims of these exactions are human rights defenders and all those who seek to improve their country’s future by advocating democratic reform, such as members of the banned UBCV and other non-recognized religions, cyber-dissidents etc. **Nguyen Dan Que, Pham Hong Son, Nguyen Khac Toan, Nguyen Vu Binh, Reverend Nguyen Hong Quang and his 5 assistants** are all currently in prison. The GD2 is a real threat to the on-going debate on democratization and reform launched in recent years by VCP veterans and former high-ranking communist cadres.

The FIDH and the Vietnam Committee emphasize that a state grounded on the rule of law cannot tolerate the existence of an occult, all-powerful organism within its own structures, one which indulges in flagrant power abuse, the use of torture and political assassination.

The FIDH and the Vietnam Committee are also deeply concerned that indigenous Montagnards from the Central Highlands have been subjected since 2001 to mass arrests and torture, forcing thousands to flee to Cambodia. Vietnam has responded to reports of grave violations by denying the incidents and accusing Montagnards of seeking to “*create disturbances in the country, trained to carry out underground missions by certain Phnom Penh-based agents of the UNHCR*” (*Courrier du Vietnam*, 4 January 2005).

Vietnam cannot build the rule of law if it continues to adopt restrictive legislation such as the new Ordinance on Religions (Ref. 21/2004/PL-UBTVQH11 of 18 June 2004), which came into effect on 15 November 2004. The provisions of this Ordinance, which do not take account of UN recommendations, are totally incompatible with the provisions of the ICCPR. Under the Ordinance, religious education must be subordinated to the “patriotic” dictates of the VCP; religious worship may only be carried out in approved religious establishments; it is forbidden to “abuse” religious freedom to contravene prevailing VCP policies (article 8§2).

This Ordinance is in fact a “respectable” version of a 602-page secret VCP document on religion, published by the Institute of Police Science with a print-run of one million copies

for distribution to Vietnamese Security agents, of which the Vietnam Committee has obtained a copy. A veritable instruction manual on religious persecution, this secret VCP document gives explicit orders for the dismantling of all non-recognized religious movements, perceived as adversaries of the VCP.

The death penalty is enforced in Vietnam for a wide variety of crimes, ranging from economic offences such as graft and embezzlement (in April 2004, a company director was sentenced to death for corruption), to drug-related crimes. The Vietnamese Criminal Code contains a whole Chapter on “crimes infringing upon national security”, many of which are punishable by death. Offences include “*gathering or supplying information and other materials* (i.e. not State secrets) *for use by foreign countries against the Socialist Republic of Vietnam*” (Article 80). This means that dissidents may face the death penalty simply for circulating opposition views overseas. Under a decree adopted in January 2004, statistics on the death penalty are classified as state secrets in Vietnam. Despite a proposal by the Minister of Justice in November 2004 to abolish the death penalty for economic crimes, no reforms have been made as yet (January 2005). In 2004, over 100 people were sentenced to death, and more than 70 people were executed.

The FIDH and the Vietnam Committee call upon the Commission on Human Rights to pass a resolution on the human rights situation in Vietnam calling on the Vietnamese authorities to:

- Immediately and unconditionally release all prisoners of opinion and conscience;
- Cease repression against indigenous peoples, particularly the Montagnards;
- Dismantle illegal services such as the GD2;
- Make public all statistics on death sentences and executions, and reduce the number of crimes punishable by death as a first step towards a moratorium, and subsequently to the abolition, of the death penalty;
- Bring all domestic legislation into line with Vietnam’s international obligations to respect human rights, notably the provisions of the ICCPR;
- Implement the recommendations of the United Nations’ treaty bodies and special mechanisms, and submit overdue reports (ICESCR, CRC);
- Extend a standing invitation to special procedures of the UN Commission on Human Rights;
- Ratify and implement the Statute of the International Criminal Court and the United Nations Convention on Torture.

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