

**Questionnaire for Members, Observer States and National Human Rights Institutions
by the UN Special Rapporteur on the situation of human rights defenders
Mary Lawlor, 9 February 2021**

The UN Special Rapporteur on the situation of human rights defenders, Ms. Mary Lawlor invites Members and Observer States and National Human Rights Institutions to respond to the questionnaire below. Submissions received will inform the thematic report of the Special Rapporteur on the issue of long term detention of human rights defenders, which will be presented to the UN General Assembly in September 2021.

The questionnaire on the report is available at OHCHR website in English (original language) as well as in French, Spanish, Russian and Arabic (unofficial translations): (<https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>).

All submissions received will be published in the aforementioned website, unless clearly indicated that you do not wish to have your input be made publicly available when submitting your response.

There is a word limit of 2500 words per questionnaire. Please submit the completed questionnaire to defenders@ohchr.org

Deadline for submissions: **19 March 2021**

Contact Details

Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional.

Type of Stakeholder (please select one)	<input type="checkbox"/> Member State <input type="checkbox"/> Observer State <input type="checkbox"/> National Human Rights Institution <input checked="" type="checkbox"/> Other (please specify) Civil Society Organization
Name of Stakeholder/ Institution (if applicable)	Vietnam Coalition Against Torture
Name of Survey Respondent	
Email	michelle.nguyen@vncrp.org
Can we attribute responses to this questionnaire to your State or Institution publicly*? *On OHCHR website, under the section of SR on the situation of human rights defenders.	Yes Comments (if any):

Questions

Human rights defenders are persons, who individually, or in association with others, work peacefully to promote and protect universally recognized human rights and fundamental freedoms, in accordance with the UN Declaration on Human Rights Defenders.

Defenders around the world peacefully promoting and defending human rights operate under national legal frameworks not always fully consistent with the United Nations Charter and international human rights law. In some instances, as echoed in multiple Human Rights Council and General Assembly resolutions,^[1] national legislation, in particular national security and counter-terrorism laws, or regulations on civil society and public freedoms have been misused to target defenders in a manner contrary to international law that might result in long-term arbitrary deprivation of liberty.

- 1) Do you know of any human rights defender(s), currently detained by your State, who have been imprisoned on charges that carry a prison sentence of at least 10 years or more? Please provide a list of cases.

Yes. The Vietnamese government stops at nothing to clamp down on freedom of religion and the right to association, perceived to be a threat to its authoritarianism. Therefore, members of religious groups and civil society organizations are often imprisoned with lengthy sentences. Some examples are:

- I. HOA HAO BUDDHIST: Convicted on charges of “conducting propaganda against the Socialist Republic of Vietnam” under Article 88 (1999 Code) and “carrying out activities aimed at overthrowing the people’s administration” under Article 79 (1999 Code).

1) Mr. Nguyen Bac Truyen is a peaceful religious freedom advocate, the recipient of the 2011 Hellman Hammett Award of Human Rights Watch, and the General Secretary of the Vietnamese Political & Religious Prisoners Friendship Association, which assists prisoners of conscience and their families. He has been imprisoned twice for his peaceful advocacy for religious freedom and basic human rights. As a legal scholar, Nguyen Bac Truyen also provided pro-bono legal assistance and training on basic human and civil rights to families of political prisoners, victims of illegal land appropriation, and members of persecuted religious communities. He has been the subject of several Special Procedures communications (VNM 4/2014; VNM 11/2014; VNM 8/2016; VNM 6/2017). His case was included in the 2015 Reprisal report of the Secretary-General (<https://undocs.org/en/A/HRC/30/29>, paragraph 42, page 14) due to the reprisal against him related to his assistance to the Special Rapporteur on FORB during his visit to Vietnam in 2014.

On November 17, 2006, Truyen was arrested and sentenced to 3 years and 6 months in prison under Article 88 (1999 Code) on charges of “conducting propaganda against the Socialist Republic of Vietnam”.

^[1] See [A/HRC/RES/22/6](#) (2013) and [A/RES/68/181](#) (2014). See also: [A/HRC/RES/25/18](#) (2014), [A/HRC/RES/27/31](#) (2014), [A/HRC/RES/32/31](#) (2016) and [A/HRC/RES/34/5](#) (2017)

On July 30, 2017, Truyen was again abducted off the street, detained, arrested, and subsequently sentenced to 11 years in prison followed by 3 years of house arrest under Article 79 (1999 Code) on charges of “carrying out activities aimed at overthrowing the people’s administration”.

II. BROTHERHOOD FOR DEMOCRACY

Brotherhood for Democracy, founded in 2013, is a loose association of activists. Aiming to promote democracy and human rights in Vietnam, the Brotherhood provided trainings on human rights topics to Vietnamese citizens prior to the fierce crackdown by Vietnamese authorities in 2017. Several members of the Brotherhood for Democracy were convicted on charge of “**carrying out activities aimed at overthrowing the people’s administration**” under **Article 79 (1999 Code)** and given lengthy prison sentences.

- 1) **Protestant Pastor Nguyen Trung Ton** was the President of Brotherhood for Democracy. He was arrested on July 30, 2017 and sentenced to 12 years in prison followed by 3 years of house arrest.
- 2) **Mr. Truong Minh Duc** is a citizen journalist and the Deputy Head of Brotherhood for Democracy in the Southern region of Vietnam. He was arrested the first time on May 5, 2007 and sentenced to 5 years in prison on charge of “taking advantage of freedom and democracy to infringe upon the interests of the country”, under Article 258 (1999 Code). He was arrested the second time on July 30, 2017 and sentenced to 12 years in prison followed by 3 years of house arrest.
- 3) **Mr. Pham Van Troi**, who was arrested the first time on September 11, 2008 under Article 88 (1999 Code) on charge of “conducting propaganda against the Socialist Republic of Vietnam” and sentenced to 4 years in prison, was arrested again on July 30, 2017 and sentenced to 4 years in prison followed by 4 years of house arrest.
- 4) **Mr. Nguyen Trung Truc** was arrested on August 4, 2017 and sentenced to 12 years in prison followed by 5 years of house arrest.
- 5) **Mr. Nguyen Van Tuc**, the deputy head of Brotherhood for Democracy, was arrested for the first time on September 10, 2008 under Article 88 (1999 Code) on charge of “conducting propaganda against the Socialist Republic of Vietnam” and sentenced to 4 years in prison followed by 3 years of house arrest. On September 1, 2017, he was arrested for the second time and sentenced to 13 years in prison followed by 5 years of house arrest.
- 6) **Mr. Tran Duc Thach** was arrested for the first time on September 12, 2008 under Article 88 (1999 Code) on charge of “conducting propaganda against the Socialist Republic of Vietnam” and sentenced to 3 years in prison followed by 3 years of house arrest. He was arrested for the second time on April 23, 2020 on charge of “carrying out activities aimed at overthrowing the people’s administration” under Article 109 (2015 Code) and sentenced to 12 years in prison followed by 3 years of house arrest.

III. THE INDEPENDENT JOURNALISTS ASSOCIATION OF VIETNAM (IJAVN)

The Independent Journalists Association of Vietnam, the country's first such organization, launched on July 4, 2014, is a civil society organization that advocates for freedom of the press and democratic reforms. In a crackdown in late 2019 leading into 2020, key members of the association were arrested under **Article 117 (2015 Code)** on charge of “**producing, storing and disseminating documents opposing the Socialist Republic of Vietnam**”.

- 1) **Mr. Pham Chi Dung** is the founder and President of IJAVN. He was arrested on November 21, 2019 and sentenced to 15 years in prison.
- 2) **Mr. Nguyen Tuong Thuy** is the Vice President of IJAVN. He was arrested on May 20, 2020 and sentenced to 11 years in prison.
- 3) **Mr. Le Huu Minh Tuan** is the Editor of IJAVN. He was arrested on June 8, 2020 and sentenced to 11 years in prison.

IV. NATIONAL FORCES RAISING THE DEMOCRACY FLAG

National Force Raising the Democracy Flag is a pro-democracy organization not yet come into existence and whose originators have only met online. Yet members were sentenced to more than 10 years in prison under **Article 79 (1999 Code)** on charges of “**carrying out activities aimed at overthrowing the people's administration**”.

- 1) **Mr. Le Thanh Tung** is a human rights advocate who supported victims of illegal landgrab and labor injustices. He was arrested for the first time on December 1, 2011 under Article 88 (1999 Code) on charge of “conducting propaganda against the Socialist Republic of Vietnam” and sentenced to 4 years in prison followed by 4 years of house arrest for his association with the pro-democracy organization Bloc 8406, a coalition of dissidents in Vietnam who advocates for democratic reforms in Vietnam. It is named after the date the group's Manifesto on Freedom and Democracy for Vietnam was published in 2006. He was arrested again on December 15, 2015 under Article 79 (1999 Code) on charges of “carrying out activities aimed at overthrowing the people's administration” and sentenced to 12 years in prison followed by 4 years of house arrest.
- 2) **Mr. Tran Anh Kim** was arrested the first time on July 7, 2009 under Article 79 (1999 Code) on charges of “carrying out activities aimed at overthrowing the people's administration” and sentenced to 5 years 6 months in prison for calling on people to join Bloc 8406 to which he is a member. He was arrested again on September 21, 2015 under Article 79 (1999 Code) on charges of “carrying out activities aimed at overthrowing the people's administration” and this time was sentenced to 13 years in prison followed by 4 years of house arrest.
- 3) Do you know of any human rights defender(s), currently detained by your State, who have been imprisoned on continuous sentences amounting to 10 years or more? For example, a defender who completes a sentence of four years in detention but instead of being released is given another six year sentence? Please provide a list of cases or examples if possible.

No.

- 2) Do you know of any human rights defender(s), whose time in pre-trial detention and/or administrative detention by your State combines with a sentence that amounts, or would amount to 10 years or more? Please provide a list of cases.

Yes. Nguyen Bac Truyen, Truong Minh Duc, Nguyen Trung Ton, Nguyen Trung Truc, Nguyen Van Tuc, Tran Duc Thach, Pham Chi Dung, Le Huu Minh Tuan, Le Thanh Tung, Tran Anh Kim, from the list above.

- 3) Do you know of any human rights defenders falling under any of the previous categories above, who were released before ending their long-term prison sentences for any reasons (e.g. granted a pardon, as a result of an appeal, or released on humanitarian or other grounds)? Please provide a list of cases.

Yes. Mrs. Tran Thi Nga, who is a cofounder of the Vietnamese Women for Human Rights and an advocate for victims of illegal landgrab and modern-day human trafficking as well as death-row inmates wrongfully convicted. She was arrested on January 23, 2017 under Article 88 (1999 Code) on charge of “conducting propaganda against the Socialist Republic of Vietnam” and sentenced to 9 years in prison followed by 5 years of house arrest. She was released on January 10, 2020 and immediately sent into exile in the United States. Tran Thi Nga is the fourth political prisoner in the past few years who was released early but had to go into exile in exchange for their freedom, following Nguyen Van Dai (Article 79, 15-year prison sentence, released in June 2018), Le Thu Ha (Article 79, 9-year prison sentence, released in June 2018), and Nguyen Ngoc Nhu Quynh (Article 88, 10-year prison sentence, released in October 2018)

- 5) What actions do you suggest the Special Rapporteur can take to:

- a) Prevent defenders from being detained for long terms in connection to their human rights work? And

Encourage the Vietnamese government to fully comply to its own laws and Constitution and fulfill its obligations under international treaties and conventions which the State has ratified.

Coordinate with UN mandate holders and OHCHR to leverage UN recommendations under UPR, UNCAT, ICCPR, CEDAW and CRC, ensure the incorporation of commitments into Vietnam’s legal framework, and closely monitor proper enforcement of Vietnam’s law using specific cases raised in incident reports to mandate holders. Specifically, in 2019 Prime Minister Nguyen Xuan Phuc of Viet Nam issued Decisions 1252/QĐ-TTg and 1975/QĐ-TTg on compliance with accepted ICCPR and UPR recommendations.

- b) Have those human rights defenders arbitrarily detained under long sentences released?

The Vietnamese government always insists that there are no prisoners of conscience in Vietnam and that people are justly imprisoned for violating the laws. Therefore, prisoners of conscience are pressured to admit being guilty of the bogus charges against them. Those who refuse to admit their guilt face disciplinary measures. Withholding medical

care is another tactic employed by prison officials to extract admission of guilt from imprisoned human rights defenders. This issue needs to be raised on world stage to combat arbitrary detention in Vietnam.

Also, there needs to be an ongoing coordinated effort by the UN, governments, parliamentarians, and international human rights organizations to raise awareness about the situations of prisoners of conscience and to "adopt" prisoners of conscience through programs to closely monitor situations of imprisoned human rights defenders, maintain contact with their families, and advocate for their release. It is best if the UN can help make the connection by highlighting cases and referring prisoners of conscience to NGOs, governmental office, or parliamentarians for "adoption".

NOTE: When providing the list of cases/examples under each question, please include: the name of the human rights defender(s), a summary of their human rights work, history of detention (date of arrest(s), charges and conviction including articles of the relevant law(s)), a brief explanation of facts relevant to their case).