

PERMANENT MISSION OF THE
SOCIALIST REPUBLIC OF VIETNAM
to the United Nations Office,
the World Trade Organization
and Other International Organizations at Geneva



MISSION PERMANENTE DE LA
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de l'Organisation Mondiale du Commerce
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DATE: 30 January 2015

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REF: 14/VNM.2015

OBJET/SUBJECT **Replies from Viet Nam regarding the information and allegations
mentioned in the Letter Ref UA VNM 10/2014**

Pages: 05 (y compris cette page/including this page)



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Ref: 14 /VNM.2015

Geneva, 30 January 2015

Dear Chair-Rapporteur and Special Rapporteurs,

We thank you for your letter Ref UA VNM 10/2014 and your valuable dialogue and consultation with Viet Nam on matters of mutual concern.

Regarding the information and allegations you received and mentioned in the letter, your kind attention is drawn to the replies from the relevant authorities of Viet Nam as follows:

1. Legal grounds for the arrest, trial and detention of Ms. Mai Thi Dung

Ms. Mai Thi Dung, born in 1969, resided before her trial in the village of Thanh My, My An Commune, Cho Moi District, An Giang Province. She was arrested, investigated, and prosecuted by competent authorities for violations of Vietnamese laws, not for "peacefully exercising her right to practice a religion of her choice". Specifically, she was tried for the first time on 27th September 2005 by the People's Provincial Court of An Giang, charged with "disturbing public order" under Article 245 of the Penal Code and sentenced to five years of imprisonment. On 19th September 2007, she was tried at the People's Provincial Court of Vinh Long for other disruptive activities in 2001 and also charged with the same offence of "disturbing public order". She was sentenced this time to 6 years of imprisonment. These two sentences amount to 11 years of imprisonment.

The process of investigation, trial and sentencing are undertaken in accordance with orders and procedures prescribed by Vietnamese relevant laws including the Criminal

Mr. Mads Andenas,
Chair-Rapporteur of the Working Group on Arbitrary Detention

Mr. Heiner Bielefeldt,
Special Rapporteur on freedom of religion or belief

Mr. Dainius Pūras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Mr. Michel Forst,
Special Rapporteur on the situation of human rights defenders

Mr. Juan E. Méndez,
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Procedure Code and fully in compliance with international norms including principles of *nullum crimen nullum poena sine lege, ne bis in idem* and those set forth in Article 14, 15, 16 of the International Covenant on Civil and Political Rights.

This is to emphasize that the two sentences were decided by first instance chambers of provincial courts and she could appeal. The fact that she did not use her right to appeal against the two sentences may be deemed that she did not reject the grounds of convicted charges.

2. Unlawful acts of Ms. Mai Thi Dung which result to the two prosecutions

2.1. Disruptive activities in Long An Province:

In March 2001, Mai Thi Dung, together with some persons, participated in disruptive activities relating to the death of a woman (Ms. Nguyen Thi Thu) in Vinh Long Town, Vinh Long Province and caused public disorder. These acts were tried at the People's Provincial Court of Long An in 2007 as mentioned above.

2.2. Disruptive activities in An Giang Province:

June 3, 2005, Ms. Mai Thi Dung and her husband (Mr. Vo Van Buu) violated traffic laws; instead of observing instructions by police officers, they acted against traffic police forces on duty, threatened to fire or block passages of people on streets... By threatening the safety and lives of the people around the area of the incident, they manifestly committed acts of disturbing public order.

Specifically, Mai Thi Dung incited other individuals to take to the streets to cause disturbances. By means of hand speakers, she spreaded provocative messages on violence and extremism... While threatening arson, occupation of private properties in the surrounding area, she slandered police forces on duty as "religious persecutors".

Although the public and law enforcement forces on duty tried to calm her away activities in order to ensure the safety, security and health of the public, Mai Thi Dung and her husband did not stop but continued to incite others to soak clothes in gasoline, threaten arson and use forces against polices officers on duty.

Subsequently, when Mai Thi Dung was summoned to the police station to report and to provide information and explanation of her behavior, she did not comply and poured gasoline onto the quilt and curtain, then threw into police officers. She also urged Vo Van Buu to start a fire to burn out policemen in the station.

These acts of Mai Thi Dung are explicitly unlawful, caused public disorder and constituted a serious threat to the health and safety of people in the surrounding area. These unlawful acts must be prosecuted and was effectively sanctioned to ensure the rule of law.

3. Regards the right to health care while serving a prison sentence and measures to ensure medical care for Ms. Mai Thi Dung

In Vietnam, all inmates are guaranteed access to health care and visits in accordance with current legislation. Accordingly, the prisoners are seen by doctors at the time they enter into prison. They have periodic health examinations and will receive necessary medical treatment if any disease is diagnosed. Sick prisoners are treated at appropriate medical facilities, provided with enough drug and granted rest and diet regimen as indicated by medical services.

During the prison term of Mai Thi Dung, both prisons did pay attention to her health condition. They arranged appropriate accommodation as well as space for learning and rest according to health condition, age and gender.

Ms. Mai Thi Dung has a history of gallstones. Since she was transferred to Thanh Xuan Prison to continue serving her prison sentence from 01/10/2013, she has been examined and received medical treatment 4 times at Ha Dong Hospital, namely on 11th October 2013, 12th December 2013, 11th November 2014 and 4th August 2014.

Results of these examinations reaffirmed that Ms. Mai Thi Dung suffered from high heart rate and gallstones. However, after serious and thorough consultations among specialist doctors, it is found that her situation did not require a surgery and can be treated with specific regimen. Doctors of Ha Dong Hospital specified regimens and subsequently, Dung was moved to the infirmary of Thanh Xuan prison for continued treatment under indicated regimen and protocols. Treatment method was decided on the basis of expertise of specialist doctors to assure medical conditions and care regimen best-suited for Mai Thi Dung.

By the time of this letter, Ms Mai Thi Dung has recovered from her illness.

4. On reasons for the transfer of prison of Mai Thi Dung

The transfer of prison during inmates' prison terms is a normal operation of the penitentiary authorities. The transfer process has been conducted in accordance with laws and regulations in force and was not decided arbitrarily or discriminatorily in any case.

Purposes of a transfer of prison are to create appropriate conditions for the rehabilitation of accused offenders and to fit criteria of gender, age, health conditions, crime and length of imprisonment. Transfer of a prisoner also aims at ensuring general regulations of prisons and fundamental rights of other inmates.

During her stay in Xuan Loc prison, Mai Thi Dung often failed to abide by the rules of the prison. She continued to conduct disruptive activities which caused disorder in the prison and affected mental conditions and rehabilitation of other inmates.

In order to facilitate the education, rehabilitation and fundamental rights of inmates in Xuan Loc prison as well as to ensure safety and security therein, on 1st October 2013, competent authorities transferred Mai Thi Dung from Xuan Loc prison to Thanh Xuan prison.

5. On freedom of religion and belief of Mai Thi Dung and people in Vietnam

Again, the allegation that the arrest and trial of Mai Thi Dung constitute a "religious persecution" is totally inaccurate. Mai Thi Dung was arrested, investigated and tried for crime of "disturbing public order" under Article 245 of the Penal Code. The investigation, prosecution and trial of the judicial authorities conducted in compliance with orders and procedures prescribed by laws in force.

Not only Mai Thi Dung, all Vietnamese are equal before the law as enshrined in the Constitution. Anyone, including officials and party members who violate the law shall be sanctioned.

The consistent policy of Viet Nam is to respect and guarantee the freedom of religion and belief of all people. Everyone has the right to practice or not a religion of her/his choice. No one is arrested, prosecuted on the basis of his/her religion or belief.

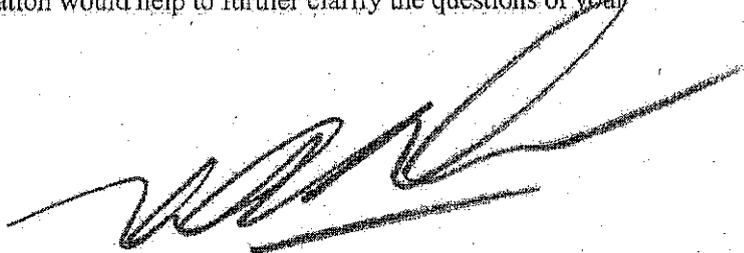
Protection of freedom of religion and belief is specified in the legal documents and guaranteed in reality. The Constitution of Viet Nam which was approved on November 28th 2013 contains a chapter on "Human Rights and Citizen's Fundamental Rights and Duties". Article 24 of the new Constitution sets forth the freedom of religion or belief of all human beings, an improvement compared to the provision of the 1992 Constitution that was confined to the citizens of Viet Nam. This fact was already recognized by the Special Rapporteur on freedom of religion or belief in his report of the visit to Viet Nam.

This explains that fact that Viet Nam has a rich, diverse belief and religious life. There are currently 38 religious organizations and one dharma-door practice that are recognized by the State. Around 95% out of 90 million people in Viet Nam have belief or religious life, the majority of them practice traditional beliefs and over 24 million followers of various religions in Viet Nam. The religious communities include 11 million Buddhists, 6.5 million Catholics, 2.5 million Cao Dai followers, 1.5 million Protestants, over 1.3 million Hoa Hao Buddhists, 78 thousand Muslims, 7 thousand Baha'i followers. There are around 25 thousand places of worship and 83 thousand religious dignitaries, 250 thousand administrative assistants of religious organizations, 46 training institutions for religious dignitaries.

Furthermore, Viet Nam is a multi-religious country with the presence of almost all major religions in the world. There is a wide diversity of religions in Viet Nam. Many of them came from abroad such as Buddhism, Catholicism and Protestantism. Others are endogenous such as Caodaism, Hoa Hao Buddhism. Many religions have a long history of development such as Buddhism and Islam. Others have been recently developed such as Cao Dai, Baha'i..... Foreigners living in Viet Nam and tourists are surprised and impressed by the vibrant and diverse belief or religious life in Viet Nam with around 9000 traditional belief festivals held per year. The people usually go to pagoda or to church, and fully participate to the traditional belief festivals.

The above-mentioned information was openly exchanged by Vietnamese agencies and religious organizations with Special Rapporteur on religion or belief when he visited Vietnam in May 2014 and the Special Rapporteur itself has recognized in his report.

We hope that the above information would help to further clarify the questions of your concern./.



THANH T. NGUYEN
Ambassador, Permanent Representative