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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on violence against women, its causes and consequences.

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (56-23) G/SO 214 (107-9) G/SO 214 (89-15)
VNM 4/2014

26 March 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 24/7, 16/4, 24/5, 22/20, 16/5, and 23/25.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **the harassment and assault of human rights defender Mr. Nguyen Bac Truyen and his wife Ms. Bui Thi Kim Phuong and the ongoing detention of three of his friends; Ms. Bui Thi Minh Hang, Ms. Nguyen Thi Thuy Quynh, and Mr. Nguyen Van Minh.**

Mr. Nguyen Bac Truyen is a Vietnamese human rights defender, lawyer and blogger, who advocates for the human rights of Hoa Hao Buddhist followers. Mr. Nguyen Bac Truyen also teaches Hoa Hao Buddhist followers about their human rights and informs foreign embassies in Viet Nam about the human rights situation of Hoa Hao practitioners. Ms. Bui Thi Kim Phuong is also a Hoa Hao Buddhism follower and has been active in advocating for the freedom of religion of Hoa Hao Buddhism followers.

According to the information received:

In the morning of 9 February 2014, Mr. Nguyen Bac Truyen was requested by the police to come to Long Hung B police station. However, without having been summoned or informed of the reason to come to the police station, Mr. Nguyen Bac Truyen did not comply with this request. At approximately 4:30 p.m., his home in Hung Nhon Group, Lap Vo village, Dong Thap province, was violently raided by around 100 police officers who fired gunshots. Mr. Nguyen Bac Truyen was beaten by the police officers and transferred to Chi Hoa prison in Ho Chi Minh City. He was later detained there under the charges of “possessing other citizens’ property”. It is reported that the police officers searched the house for approximately three hours, without having a search warrant. The police officers confiscated his belongings, including his laptop, camera and mobile phone.

Ms. Bui Thi Kim Phuong was taken to the local police station and was interrogated for approximately five hours about her husband’s human rights activities.

In detention, the police asked Mr. Nguyen Bac Truyen questions about the debts of companies that he had previously worked for. He did not answer any of the questions and informed the police to contact his lawyer. Mr. Nguyen Bac Truyen was released from detention the following evening at approximately 7:00 p.m.

On 11 February 2014, a group of 21 colleagues and friends of Mr. Nguyen Bac Truyen went to visit his family. At approximately 9:30 a.m., the 21 individuals were arrested by police officers from Lap Vo District District at the Nong Trai bridge, My An Hung B ward, Lap Vo district, Dong Thap province. It is reported that all of them were violently beaten with batons and were taken to the Lap Vo District police station in handcuffs.

On 13 February 2014 at approximately 9:00 p.m., 18 of the 21 arrested individuals were released. However, Ms. Bui Thi Minh Hang, Ms. Nguyen Thi Thuy Quynh, and Mr. Nguyen Van Minh remained detained as they have been accused of “illegal gathering causing serious interference with common traffic”.

On 15 February 2014, Ms. Bui Thi Minh Hang, Ms. Nguyen Thi Thuy Quynh, and Mr. Nguyen Van Minh were moved to An Binh prison in Cao Lanh city, Dong Thap province. They are all currently in detention.

On 24 February 2014, Mr. Nguyen Bac Truyen and his wife Ms. Bui Thi Kim Phuong were invited to a diplomatic mission to discuss Mr. Nguyen Bac Truyen’s arrest. While on their way to the diplomatic mission, at approximately 2:30 p.m., four undercover policemen assaulted their cab driver and brutally attacked Mr. Nguyen Bac Truyen and Ms. Bui Thi Kim Phuong at the intersection of Doa Tan – Lieu Giai in Hanoi. The incident lasted for about ten minutes until a group of witnesses intervened following their cries that the police were beating them. The police officers then left without saying anything. Mr. Nguyen Bac Truyen and Ms. Bui Thi Kim Phuong were physically injured.

An official from the diplomatic mission later escorted both of them to the Hanoi Family Clinic for examination. Mr. Nguyen Bac Truyen did not file any charges against the police officers.

The police are allegedly still monitoring Mr. Nguyen Bac Truyen's house in Lap Vo village. It is further reported that the police has been monitoring their house since May 2013.

At approximately 9:00 p.m. on 22 March 2014, Ms. Bui Thi Minh Hang's daughter, son-in-law and granddaughter (7 months infant) were taken by police officers to the Hoan Kiem District Police Department for a routine identification check. The family was returned to their home at approximately 3:00 a.m. and were later prevented from participating in a demonstration for the release of Ms. Bui Thi Minh Hang which was scheduled on 23 March 2014 at Hoan Kiem Lake in Hanoi.

Grave concerns are expressed that the judicial harassment and attacks of Mr. Nguyen Bac Truyen, his wife Ms. Bui Thi Kim Phuong and their friends and colleagues might have be linked to their peaceful activities in advocating for the human rights of Hoa Hao Buddhist followers. Further concerns are expressed regarding the ongoing detention, as well as the physical and psychological integrity of Ms. Bui Thi Minh Hang, Ms. Nguyen Thi Thuy Quynh, and Mr. Nguyen Van Minh.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR), and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Furthermore, we would like to recall to your Excellency's Government the principles set forth in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief. Article 6 (i) of the Declaration provides that the right to freedom of thought, conscience, religion or belief includes the freedom "to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels."

We would like to refer to article 21 of the ICCPR, which provides that “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

In this connection, we would like to refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We would also like to bring to your Excellency's Government's attention article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of states to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, states should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

We would also like to bring to your Excellency's Government's attention to article 7 (c) of the International Convention on the Elimination of all forms of Discrimination against Women, which requires States Parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Furthermore, we deem it appropriate to make reference to Commission on Human Rights Resolution 2005/41 on the Elimination on Violence against women, which calls on States to take all measures to empower women and strengthen their economic independence, and to protect and promote the full enjoyment of all human rights and fundamental freedoms in order to allow women and girls to protect themselves better against violence and, in this regard, to give priority to and promote the full and equal participation in public and political life of women as well as to ensure their full and equal access to education, training, economic opportunity and economic advancement.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Please provide information concerning the legal grounds for the arrest and detention of the abovementioned persons and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.

2. Please provide information on whether Ms. Bui Thi Minh Hang, Ms. Nguyen Thi Thuy Quynh and Mr. Nguyen Van Minh have access to family members, legal counsel, and medical personnel while in detention.

3. Please indicate what measures have been taken to ensure that all human rights defenders in Viet Nam can carry out their peaceful and legitimate activities without fear of judicial harassment, criminalisation or violence of any kind.

We undertake to ensure that your Excellency's Government's response will be available in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

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

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of
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Heiner Bielefeldt

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Margaret Sekaggya
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Rashida Manjoo
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