

Mandates of the the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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VNM 2/2015:

25 November 2015

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 25/18, 26/7, 26/12, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning serious bodily assault **against Mr. Tran Thu Nam, a Vietnamese lawyer and human rights defender, and another lawyer and human rights defender who was accompanying him, as well as threats to the latter. The assault appears to be directly linked to the legal assistance they provided to Mrs. Do Thi Mai.**

Mrs. Do Thi Mai and her son, Mr. [REDACTED], were the subject of a communication sent to your Excellency's Government on 30 October 2015 (see case no. VNM 1/2015).

According to the information received:

On 3 November 2015, around 2:45 p.m., eight persons on motorbikes wearing masks attacked Mr. Tran Thu Nam and another Vietnamese lawyer in Hanoi while they were on their way back from a meeting with Mrs. Do Thi Mai.

Mr. Nam and his colleague were severely beaten by the assailants. One of them has been recognized by the victims as local police officer Mr. [REDACTED].

Mr. Nam had his nose broken and was admitted to the emergency department of a hospital in Hanoi. His colleague was also beaten, but less severely.

The two lawyers provide legal assistance to Mrs. Do Thi Mai, the mother of Mr. [REDACTED], a 17-year-old child who died in prison on 10 October 2015 following ill-treatment by Vietnamese security officers. Ms. Mai was harassed by the police for having brought the case of her son to the attention of UN human rights mechanisms. Mr. Nam and his colleague are part of a group of lawyers who had sent letters to the authorities in Hanoi, demanding an investigation into the case of Mr. [REDACTED]. Mr. Nam is one of the very few Vietnamese lawyers who have been defending human rights and democracy activists over the past four years.

It is reported that, before the incident of 3 November, the police had forced Mrs. Mai to dismiss Mr. Nam and to replace him by a lawyer appointed by the authorities.

On 10 November 2015, the police held a press conference to announce the result of a preliminary investigation into the attack against the lawyers. The police contradicted Mr Nam's version stating that the lawyers had been beaten by a group of young people because of dust provoked by their car in the street. They also exonerated Mr. [REDACTED], the policeman who reportedly participated in the attack against the two lawyers.

We express grave concern about the personal security and physical and psychological integrity of Mr. Nam and his colleague, as the attack they suffered appears to be related to their legitimate human rights work. We are also concerned that this attack was accompanied by threats made against their life. Of particular concern is the allegation that one, and possibly several, policemen may have been among those who attacked the lawyers. We further express our concern about allegations that Mrs. Do Thi Mai was harassed by the police to force her to revoke the lawyer of her choice and to accept a lawyer imposed by the authorities.

Without expressing at this stage an opinion on the facts of the case, the above allegations appear to be in contravention of the right of every individual to life and security, as set forth in articles 3 of the Universal Declaration of Human Rights (UDHR) and 6 and 9 of the International Covenant on Civil and Political Rights (ICCPR), to which Viet Nam acceded on 24 September 1982. The Human Rights Committee has repeatedly noted that States cannot ignore known threats to the life of persons under their jurisdiction, just because he or she is not arrested or otherwise detained. States parties are under an obligation to take reasonable and appropriate measures to protect them (cases of *William Eduardo Delgado Páez v. Colombia*, (Communication No. 195/1985) and of *Luis Asdrúbal Jiménez Vaca v. Colombia*, (CCPR/C/74/D/859/1999)).

We are referring your Excellency's Government to the UN Basic Principles on the Role of Lawyers, which state that governments must ensure that lawyers are able to perform all of their professional functions without intimidation (principle 16), that where the security of lawyers is threatened as a result of discharging their functions they must be adequately safeguarded by the authorities (principle 17), and that lawyers must not be identified with their clients or their client's causes (principle 18).

We are also drawing your Excellency's Government attention to the fact that "Intimidation and coercion, as described in article 1 of the Convention against Torture ratified by Viet Nam on 5 February 2015, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture".

Last, we recall the provisions of 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, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 6, 9 and 12; and those of the Human Rights Council Resolution (A/HRC/RES/12/2) on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, which call on States to ensure the protection of all the persons cooperating with the United Nations and its mechanisms, for the promotion and protection of human rights.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we respectfully call upon your Excellency's Government to ensure the personal security and the physical and psychological integrity of Mr. Tran Thu Nam, his colleague, and Mrs. Do Thi Mai. We also call your Excellency's Government to order a prompt, thorough, independent and impartial investigation into the alleged attack and to prosecute and punish any perpetrator found responsible for it. We further call upon your Excellency's Government to take the necessary measure to ensure that human rights defenders are able to carry out their legitimate work in a safe and enabling environment without fear of threats or reprisals of any sort.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Michel Forst
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Mónica Pinto
Special Rapporteur on the independence of judges and lawyers

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