

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders

REFERENCE: UA
VNM 1/2016:

20 April 2016

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged ongoing harassment, threats and attacks against human rights defender Mr. **Tran Minh Nhat** in retaliation for his legitimate human rights work.

Mr. **Tran Minh Nhat** is a former political prisoner, a writer for Vietnam Redemptorist News and advocate for the promotion and protection of economic, social and cultural rights in Vietnam. Mr. Nhat was the subject of a previous communication sent to your Excellency's Government dated 14 January 2013, (see A/HRC/25/55/Add.3 case no. VNM 1/2013). We acknowledge your Excellency's response on 21 March 2013.

According to the information received:

On 27 August 2015, Mr. Tran Minh Nhat was released from prison after serving four years for "activities aiming to overthrow the people's administration" under Article 70 of the Vietnamese Penal Code. Since his release, he has continued his activities as a human rights defender and is currently a reporter for Vietnam Redemptorist News. Mr. Nhat and his family have been continually harassed and threatened by local authorities and individuals.

On 8 November 2015, at 6 a.m., the car in which the human rights defender was travelling to his home in the Central Highlands province was stopped by ten

police officers in Dinh Van. He was subsequently taken to a local police station. While at the police station, Mr. Nhat was accused of having violated his probation. This was despite Mr. Nhat's insistence that he had reported to authorities that he would travel to Saigon to receive medical treatment. The police accused him of communicating with a priest from the Catholic Redemptorist church, who was alleged by the police to be enemy of the State. Mr. Nhat was also accused of receiving money to carry out subversive activities. During the interrogation, Mr. Nhat was subjected to punches in his abdomen, strangulation and twisting of his arms. Subsequently, the police took Mr. Nhat to a People's Committee Office in Da Don village, where members of the communist National Front and Youth Union from the village were gathered. The crowd criticized the actions of Mr. Nhat and attempted to force him to write a letter admitting his wrongdoings, but the human rights defender refused. Later, at approximately 6 p.m., he was released.

On 17 November 2015, Mr. Nhat went to a doctor to examine the injuries which he had sustained during the incident on 8 November 2015. As he left the clinic with his father, eight police officers, including those who took part in the above incident, approached him and beat him in broad daylight. When those individuals involved were summoned to the police station, no action was taken against them.

In December 2015, 155 coffee plants and 11 avocado trees belonging to the brother of Mr. Nhat were chopped down by unknown persons. Seven pepper vines were also uprooted at the home of Mr. Nhat.

On 1 January 2016, another brother of Mr. Nhat's had 382 of his pepper vines chemically poisoned. Furthermore, 400 pepper vines belonging to Mr. Nhat were also damaged. This was reported to local police but no action has been taken as of the time of this communication.

On 8 and 9 February 2016, masked men threw stones at the home of Mr. Nhat.

On 10 February 2016, at approximately 1 a.m., dried coffee plants beside the home of Mr. Nhat were set on fire, which took eight people and three hours to put out. On the following day, at mid-day, masked men threw stones at the home of Mr. Nhat.

On 12 February 2016, the home of Mr. Nhat and his neighbours were sprayed with pesticides, which caused the residents headaches, nausea and vomiting.

On 13 February 2016, at 11.45 p.m., masked men again threw stones at Mr. Nhat's home. The same day, the brother of Mr. Nhat was stopped by five police officers who threatened to physically attack and burn down his home. They also cursed the ancestors of Mr. Nhat and used profanity to insult his brother.

On 14 February 2016, chickens which Mr. Nhat had been rearing died due to the sprayed pesticides. Pepper vines belonging to Mr. Nhat were sprayed with pesticides again. Mr. Nhat reported all of these incidents to local authorities but they refused to investigate the matters.

On 22 February 2016, at approximately 7 p.m., while Mr. Nhat and his family were praying in their home, a police officer came and began shouting and demanded he come outside. When Mr. Nhat went outside, the police officer threw a rock at his head, causing him injury. His family attempted to take Mr. Nhat to hospital. However, the Lam Ha district police would not permit this. Mr. Nhat and his family took refuge in his brother's home, but the police arrived there and threw rocks at it. While the house of Mr. Nhat was vacant, it was broken into, and many items were destroyed.

In April 2016, LamHa Police in two groups of six persons has monitored the two roads approaching Mr. Nhat's home. They have continuously followed the movements by Mr. Nhat.

On 7 April 2016, Mr. Nhat received two phone calls from Lam Ha officers, who insulted him and threatened that he "will be punished" if he were to go out.

In the late afternoon of 16 April 2016, while working in their gardens Mr Nhat's brothers were approached by two individuals who began to threaten and harass them. When asked to leave the private property, the individuals including the policeman who had previously beaten Mr Nhat on 8 November 2015, assaulted them.

Grave concern is expressed at the continuous harassment, intimidation, threats and attacks against Mr. Nhat, as well as for his physical and psychological security, which appear to be in direct retaliation for his peaceful and legitimate human rights activities. Further concern is expressed that the local authorities may have taken part in this harassment and have not taken steps to prevent it, despite complaints lodged by Mr. Nhat. We also express concern that these attacks against Mr. Nhat may be an attempt to dissuade him from continuing his work in the promotion and protection of economic, social and cultural rights in Vietnam and from exercising his right to freedom of expression.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), which Vietnam ratified on 24 September 1982. In particular, articles 2 and 19 of the ICCPR provide that the State must ensure that any person whose rights or freedoms are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; and that everyone shall have the right to freedom of expression. We further refer to General Comment No. 34 of the Human Rights Committee. Accordingly, "All forms of opinion are protected,

including opinions of a political, scientific, historic, moral or religious nature.” The obligation to respect the right to freedom of expression is binding on all branches of the State and its authorities at all levels. The obligation requires States parties to ensure that persons are protected from any acts by private persons or public authorities that would impair the enjoyment of the right to freedom of expression (CCPR/C/GC/34).

In addition, we would like to recall 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, also known as the UN Declaration on Human Rights Defenders. In particular, we wish to refer to articles 1, 2 and 6 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international level; that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms; and that everyone has the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights. Furthermore, article 12 provides that the State shall take all necessary measures to ensure the protection of everyone 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.

Furthermore, Human Rights Council resolution 22/6 states that domestic law should create a safe and enabling environment for the work of human rights defenders (PPs 10-13).

Finally, we would like to draw the attention of your Excellency’s Government to the resolution 31/32 of the Human Right Council, which calls on “all States to take all measures necessary to ensure the rights and safety of human rights defenders, including those working towards the realization of economic, social and cultural rights and who, in so doing, exercise other human rights, such as the rights to freedom of opinion, expression, peaceful assembly and association, to participate in public affairs, and to seek an effective remedy” (OP-2).

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 would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.

2. Please provide information about the justification for the decision not to investigate or otherwise lodge an inquiry into the use of police violence against Mr. Nhat.

3. Please provide the full details of any investigation conducted into the complaints lodged by Mr. Nhat with regard to the threats and attacks against him and his family. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators? Please indicate whether compensation has been provided to Mr. Nhat and his family. In the case that no investigation or inquiry has been undertaken or has proven inconclusive, please explain why.

4. Please provide the details of any protective measures taken to ensure the physical and psychological security and integrity of Mr. Nhat and his family. If no measures have been taken, please explain why.

5. Please kindly indicate what measures have been taken to ensure that human rights defenders in Vietnam are able to carry out their legitimate work in a safe and enabling environment, without fear of threats or acts of intimidation, harassment and attacks 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.

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders