

Mandates of 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 the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
AL VNM 3/2017

17 March 2017

Excellency,

We have the honour to address you in our capacities as 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 the situation of human rights defenders; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 25/2, 32/32, 25/18, 25/13, and 32/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of arrests of, and acts of harassment against, the following seven individuals in connection with their participation in a 3-month training course on civil society in Vietnam: Ms. **Vu Ngoc Han**, student; Mr. **Cao Tran Quan**, student; Mr. **Thanh Phat Huynh**, student; Ms. **Nguyen Thi Phuong Hoa**, labour rights defender; Mr. **Nguyen Ho Nhat Thanh**, human rights defender; Mr. **Le Hong Phong**, human rights defender; and Mr. **Nguyen Tran Hai Dang**, human rights defender.

The training was delivered by the non-governmental organization Vietnamese Overseas Initiative for Conscience Empowerment (VOICE), established in 1997 and based in the United States of America and the Philippines. VOICE started as a small legal aid office providing assistance to stateless Vietnamese refugees in the Philippines. Nowadays, while pursuing their commitment towards Vietnamese refugees, VOICE also offers training courses to the Vietnamese youth on civil society development, advocating for human rights and the rule of law. VOICE has reportedly been classified as an "overseas reactionary organization" by the Vietnamese authorities and has not been allowed to officially register in Vietnam.

According to the information received:

In December 2016, Ms. Vu Ngoc Han, Mr. Cao Tran Quan, Mr. Thanh Phat Huynh, Ms. Nguyen Thi Phuong Hoa, Mr. Nguyen Ho Nhat Thanh, Mr. Le Hong Phong, and Mr. Nguyen Tran Hai Dang started participating in a 3-month training course delivered by VOICE in an apartment in the Era Town, district 7 of Ho Chi Minh City, where the trainees also lived during the training session.

Between 19 and 24 December 2016, one of the trainees reportedly kept on receiving phone calls from a policeman who sought to meet with him. On 25 December 2016, the trainee agreed to meet with the policeman who then reportedly followed him back home, in order to find out where the training course was taking place.

On 26 December 2016, a group of about twenty policemen, in green uniforms, reportedly broke down the door of the apartment. All the individuals were arrested on the motive of failing to register the apartment with the local authorities, which constitutes a violation under Vietnamese laws of household registration. The trainees protested and some of them were allegedly beaten up by police officers. One of the trainees was hit on the head and verbally assaulted. The police seized the trainees' laptops, phones and passports. Other police officers arrested Mr. Nguyen Ho Nhat Thanh in a nearby coffee shop. He reportedly received death threats when he tried to resist his arrest, before being taken away with a jacket over his head.

The trainees were taken to different police stations for interrogation on alleged suspicion of 'gathering forces to overthrow the Government'. They were repeatedly questioned on the issue of funding for the training, including whether they had received any funds from abroad. One of the trainees was allegedly physically assaulted during his interrogation. They were all released around 11.30 p.m. on the same day. The police reportedly refused to return their passports.

One of the female trainees took a taxi to go back to the apartment block. Upon her arrival, the taxi was surrounded by a group of men who forcibly took her out of the car and beat her up for several minutes. The taxi driver was also reportedly beaten up. Mr. Nguyen Ho Nhat Thanh was similarly attacked on his way home after his taxi had been intercepted.

At the beginning of January 2017, Mr. Nguyen Ho Nhat Thanh filed a complaint to the police of Ho Chi Minh City in relation to the alleged misconduct of the police of district 7. On 6 January 2017, he was informed that the complaint had been transferred, for review, to the Chief of the police of district 7.

The VOICE training course has been temporarily suspended following the aforementioned alleged incidents.

Serious concerns are expressed about the reported arrests, harassments and acts of violence by police forces against the aforementioned individuals, criminalizing the exercise of their right to freedom of peaceful assembly and right to freedom of expression. Additional concern is expressed that the accusations brought against the young human rights defenders do not seem to rest on any evidence beyond their mere participation in a training aimed to advance their knowledge and skills in civil society

building and human rights protection in Viet Nam. Further concerns are expressed about the situation of human rights defenders in general in the country, including those affiliated with VOICE, who have reportedly been labelled as a “reactionary force” by the Government and pro-Government media.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

2. Please provide the legal basis for the arrests of the trainees, their interrogation, and the confiscation of their personal belongings and passports. In particular, please explain how participation in peaceful human rights training amounts to “gathering forces to overthrow the Government”. Please indicate how these measures are compatible with international human rights norms and standards.

3. Please provide information on the alleged acts of police brutality, threats and surveillance against the trainees. Please indicate whether any investigation has been or will be conducted into these allegations and whether the alleged perpetrators will be sanctioned.

4. Please provide any updates regarding Mr. Nguyen Ho Nhat Thanh’s complaint to the Police of Ho Chi Minh city.

5. Please indicate what measures have been taken to ensure that human rights defenders, especially students and young activists are able to attend human rights trainings, develop their skills and competences in matters related to human rights protection and, more generally, operate in a safe and enabling environment without fear of threats or acts of harassment of any sort.

We would appreciate receiving a response within 60 days.

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(s) responsible for 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

Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst

Special Rapporteur on the situation of human rights defenders

Nils Melzer

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your Excellency's Government's attention to the following human rights standards:

The above mentioned allegations appear to be in contravention with articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Vietnam on 24 September 1982, guaranteeing the rights to freedom of opinion and expression and freedom of peaceful assembly, respectively. In this connection, we reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including on reporting on human rights; peaceful demonstrations or political activities, including for peace or democracy.

With respect to the use of national security accusations against the activities of the aforementioned individuals, we would like to remind your Excellency's Government that any restriction on expression that a government seeks to justify on grounds of national security must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest. To establish that a restriction on freedom of expression is necessary to protect a legitimate national security interest, a government must demonstrate that: (a) the expression at issue poses a serious threat to a legitimate national security interest; (b) the restrictions imposed is the least restrictive means possible for protecting that interest; and (c) the restriction is compatible with democratic principles.

We would like to further refer to Human Rights Council resolution 24/5 which "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 of 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" (OP2).

We would like to remind your Excellency's Government of articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by your Government on 5 February 2015, which codify the absolute and non-derogable prohibition of torture and other ill-treatment.

We would also like to draw the attention of your Excellency's Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, "[l]aw enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force.

They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.” In addition, Principle 15 provides that, " (l)aw enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened."

Additionally, we wish to bring to the attention of your Excellency's Government 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 its articles 1, 2, 5, and 6.